MANUAL

FOR THE

STATE BOARD

OF

HEALTH, LUNACY AND CHARITY.

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MANUAL

FOR THE USE OF THE

BOARD OF HEALTH, LUNACY, AND CHARITY

OF

MASSACHUSETTS,

CONTAINING

THE GENERAL AND SPECIAL STATUTES UNDER WHICH ITS AUTHORITY IS EXERCISED.

BOSTON:
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INTRODUCTION.

The State Board of Health, Lunacy, and Charity, established in May, 1879, takes the place of two long existing Boards, — the State Board of Health, created in 1869, and the Board of State Charities, created in 1863 to succeed the Alien Commission, which had been established in 1852. The duties of a Lunacy Commission, now performed by the new Board, had been in part assigned to the Board of Charities since 1864, and in part performed by a special commission appointed in 1874, for one year.

The Massachusetts Board of State Charities consisted of seven members, and was the oldest organization of the kind in the United States. It was created by chapter 240, Acts of 1863, and organized on the 7th of October in that year, with Otis Norcross, of Boston, as Chairman, Dr. H. B. Wheelwright, of Taunton, as General Agent, and F. B. Sanborn, of Concord, as Secretary. Mr. Norcross resigned his place on the Board in September of the following year, and Dr. Nathan Allen, of Lowell, was chosen as his successor in the chairmanship, retaining the position till October, 1865, when Dr. Samuel G. Howe, of Boston, was elected. Dr. Howe was Chairman by successive annual elections till October, 1874, when he declined further service. Moses Kimball, of Boston, was elected to the position, but declined to accept it, and thereupon F. B. Sanborn was chosen Chairman. He retired in September, 1876, and was succeeded by Edward Earle, of Worcester, who died in May, 1877. Dr. Allen was then re-elected Chairman, and served in that capacity till the Board ceased to exist June 30, 1879.

The first General Agent of the Board of Charities was Dr. Wheelwright, then of Taunton, who had been Chairman of the Alien Commission from 1858 to 1863. He acted as General Agent of the Board till October, 1868, when he retired, and Stephen C. Wrightington, of Fall River, was appointed to the position, which he retained until the office ceased to exist, when he became Superintendent of In-door Poor under the present Board. Dr. Wheelwright, from 1869 to July, 1879, was Agent for the Sick State Poor, and is now Superintendent of Out-door Poor under the new Board. Mr. Sanborn remained Secretary of the Board of Charities until October, 1868, when he resigned, and was succeeded by Julius L. Clarke, of Newton, who resigned in 1869. Edward L. Pierce, of Milton, was then appointed, and remained in office till March, 1874.

During the absence of Mr. Pierce in Europe, from May to November, 1873, and after his resignation, Mr. Sanborn was chosen Acting Secretary, and held the place until Sidney Andrews, of Brookline, having been appointed as Mr. Pierce's successor in May, 1874, took charge of the office in July of the same year. Mr. Andrews continued Secretary until the Board was abolished in June, 1879. The Visiting Agent of the Board from 1866 to 1869 was Gordon M. Fisk, of Palmer, and from 1869 to July, 1879, Gardiner Tufts, of Lynn. The office was then abolished, and its duties imposed upon the new Board.

The Act which established a State Board of Health was passed and went into effect June 21, 1869. Soon afterwards Gov. Claflin appointed the seven members necessary to constitute the Board, their commissions bearing date July 31, 1869. Their first meeting was held Sept. 15, 1869, when the senior member, Dr. H. I. Bowditch, explained to them what, as he considered it, was the general nature of their duties, and the important bearing which a faithful discharge of them would have on the present and future health of the citizens of the State. It was for them to inaugurate State Medicine in Massachusetts. At a subsequent meeting, held Sept. 22, 1869, the organization was completed by the choice of Dr. Bowditch as Chairman, and Dr. George Derby as Secretary. Dr. Derby died June 20, 1874. Dr. F. W. Draper was elected Secretary *pro tempore* June 22, 1874, and served until Sept. 2, 1874, when he was succeeded by Dr. C. F. Folsom, who is now the Secretary of the united Board.

The State Board of Health, Lunacy, and Charity, was organized on the first of July of the past year.

In order to perform its large and varied duties with a proper degree of efficiency, it was deemed best to divide the work of the Board into four Departments corresponding to the several classes of subjects committed to its jurisdiction.

The Secretary of the Board performs the executive duties of the Department of Health, and attends to the Sanitary Supervision of the Institutions, and such other duties as may be assigned him.

It was found necessary to establish a Department with an officer under the title of Inspector of Charities, who has charge of such statistical work, not otherwise assigned, as the Board shall direct; and who, under the direction of the Board, attends to the enforcement of the statutes regulating the commitment and detention of lunatics. It is his duty, also, to exercise constant watchfulness over all the institutions which the Board is required to supervise, and to perform such other duties as shall be, from time to time, required of him.

The Department of Charities was subdivided into two divisions, entitled, respectively, the Department of the In-door Poor and the Department of the Out-door Poor. The chief executive officer of the former, styled Superintendent of the In-door Poor, is charged with the work of enforcing all provisions of law relating to State pauper inmates of the State Lunatic Hospitals, State Almshouses and Workhouses, and all the inmates of State Reformatories; and of the laws relating to alien passengers, and to proceedings in bastardy. He is also charged with the

visitation of children who are the wards of the State; with the collection of all money due to the State for the support of inmates in the several State establishments; with the auditing of bills of the several lunatic hospitals against the Commonwealth, for the support of non-settled lunatic paupers; and is subject to perform such other service as may, from time to time, be required of him. He is obliged to give a bond to the Treasurer of the Commonwealth in the sum of ten thousand dollars, with sufficient sureties, for the faithful performance of his duties.

To the Superintendent of the Out-door Poor is intrusted the duty of executing the provisions of law relating to the sick State poor, and those ill with contagious diseases; the duty of attending to the poor receiving temporary relief from the State; to foundlings and destitute infants, and to persons of Indian descent; and he is required to perform such other duties as may be, from time to time, imposed upon him.

The Board has appointed for the heads of these Departments officers having ample experience in the work which they are required to perform.

MEMBERS OF FORMER BOARDS.

THE following gentlemen have served as members of the Boards of Health and Charities: —

STATE BOARD OF HEALTH.

Henry I. Bowditch, M.D., of Boston	appointed July 31, 1869.
George Derby, M.D., of Boston	appointed July 31, 1869. died June 20, 1874.
P. Emory Aldrich, of Worcester	appointed July 31, 1869. resigned Sept. –, 1873.
William C. Chapin, of Lawrence	appointed July 31, 1869. resigned Oct. 5, 1871.
Warren Sawyer, of Boston	appointed July 31, 1869. resigned Jan. 16, 1873.
Richard Frothingham, of Charlestown	appointed July 31, 1869.
Robert T. Davis, M,D., of Fall River	appointed July 31, 1869.
Gustavus V. Fox, of Lowell	appointed Nov. 3, 1871. resigned Jan. 25, 1873.
David L. Webster, of Boston	appointed Feb. 25, 1873.
John C. Hoadley, of Lawrence	appointed Jan. 28, 1873.
Thomas B. Newhall, of Lynn	appointed Jan. 28, 1873.
Charles F. Folsom, M.D., of Boston	appointed July 14, 1874.

BOARD OF STATE CHARITIES.

NAME.	Residence.	Date of Original Appointment.	Expiration of Term.
Otis Norcross	Boston	Sept. 30, 1863,	Sept. 30, 1864.†
Nathan Allen	Lowell	30, 1863,	June 30, 1879.
Robert T. Davis	Fall River	30, 1863,	12, 1864.†
Edward Earle	Worcester	30, 1863,	May 19, 1877.*
H. B. Wheelwright	Taunton	30, 1863,	July 4, 1868 †
F. B. Sanborn	Concord	30, 1863,	Sept. 30, 1876.
Theodore Metcalf	Boston	Jan. 26, 1864,	March 1, 1866.†
Josiah C. Blaisdell	Fall River	June 14, 1864,	Jan. 27, 1870.†
Samuel G. Howe	Boston	Nov. 2, 1864,	June 3, 1875 †
Charles H. Warren	Boston	Apr. 17, 1866,	Sept. 30, 1868.†
S. C. Wrightington	Fall River	July 24, 1868,	June 30, 1879.
Julius L. Clarke	Newton	Oct. 19, 1868,	Oct. 31, 1869.†
Moses Kimball	Boston	Nov. 5, 1868,	June 30, 1879.
Edward L. Pierce	Milton	Oct. 28, 1869,	Mar. 31, 1874.†
Sidney Andrews	Brookline	June 30, 1874,	June 30, 1879.
Charles F. Donnelly	Boston	Aug. 24, 1875,	30, 1879.
Charles F. Coffin	Lynn	June 11, 1878,	30, 1879.
Hamilton A. Hill	Boston	11, 1878,	30, 1879.

* Died. † Resigned.

NOTE. — Mr. Earle was the only member of this Board who died while in office; but Dr. Howe and Judge Warren have since died, — the former Jan. 9, 1876, and the latter in 1874.

MEMBERS OF THE BOARD OF HEALTH, LUNACY, AND CHARITY.

Date of Appointment.	NAME.	Residence.	Qualified.	Term expires.
June 7, 1879 .	Moses Kimball *	Boston	June 12, 1879 .	June 7, 1884.
7, 1879 .	Nathan Allen, M.D.*	Lowell	19, 1879 .	7, 1880.
7, 1879 .	*Henry I. Bowditch, M D.*†	Boston	12, 1879 .	Jan. 24, 1880. ‡
7, 1879 .	Charles F. Donnelly *	Boston	16, 1879 .	June 7, 1883.
7, 1879 .	Edward Hitchcock, M D.	Amherst . . .	13, 1879 .	7, 1881.
7, 1879 .	Albert Wood, M.D.	Worcester . . .	10, 1879 .	7, 1880.
7, 1879 .	Robert T. Davis, M. D.* †	Fall River . . .	14, 1879 .	7, 1882.
7, 1879 .	John C. Hoadley †	Lawrence . . .	19, 1879 .	7, 1881.
7, 1879 .	Ezra Parmenter, M.D.	Cambridge . . .	18, 1879 .	7, 1882.
Jan. 27, 1880 .	David L. Webster †	Boston	Jan. 30, 1880 .	7, 1883.

HEADS OF DEPARTMENTS.

C. F. Folsom, Boston, *Secretary.*†
H. B. Wheelwright, Newburyport, *Supt. of Out-door Poor.**
S. C. Wrightington, Fall River, *Superintendent of In-door Poor.**
F. B. Sanborn, Concord, *Inspector of Charities.**

* Former member of the Board of State Charities. † Former member of the State Board of Health. ‡ Resigned.

Note. — Names of past members in Italics.

INSTITUTIONS UNDER THE SUPERVISION OF THE BOARD.

State Lunatic Hospital, Worcester.

Superintendent, *John G. Park*, *M.D.*, Worcester.

Trustees . . { *Thomas H. Gage*, *M.D.*, Worcester.
John D. Washburn, Worcester.
James B. Thayer, Cambridge.
Robert W. Hooper, *M.D.*, Boston.
Rufus D. Woods, Enfield.

Superintendent of the Chronic Asylum, *H. M. Quinby*, *M.D.*, Worcester.

State Lunatic Hospital, Taunton.

Superintendent, *J. P. Brown*, *M.D.*, Taunton.

Trustees . . { *Samuel L. Crocker*, Taunton.
George Howland, *jun.*, New Bedford.
William C. Lovering, Taunton.
Simeon Borden, Fall River.
Le Baron Russell, *M.D.*, Boston.

State Lunatic Hospital, Northampton.

Superintendent, *Pliny Earle*, *M.D.*, Northampton.

Trustees . . { *Adams C. Deane*, *M.D.*, Greenfield.
Henry W. Taft, Pittsfield.
William Whiting, Holyoke.
William M. Gaylord, Northampton.
Silas M. Smith, Northampton.

State Lunatic Hospital, Danvers.

Superintendent, *Calvin S. May*, *M.D.*, Danvers.

Trustees . . { *James Sturgis*, Boston.
Daniel S. Richardson, Lowell.
Charles P. Preston, Danvers.
Gardner A. Churchill, Boston.
Samuel W. Hopkinson, Bradford.

State Almshouse, Tewksbury.

Superintendent, *Thomas J. Marsh*, Tewksbury.

Trustees . . { *F. H. Nourse*, Winchester.
George P. Elliott, Billerica.
W. R. Spaulding, Lawrence.
Ellen S. S. Hammond, Boston.
Emily F. Pope, *M.D.*, Boston.

State Workhouse, Bridgewater.

Superintendent, *N. Leonard, jun.*, Titicut.

Trustees . . *Joshua E. Crane*, Bridgewater.
J. White Belcher, Randolph.
S. W. Bowen, M.D., Fall River.
Catherine P. Lothrop, Taunton.
Georgianna A. Boutwell, Groton.

State Primary and Reform Schools.

Trustees of the State Primary and Reform Schools. *Anne B. Richardson*, Lowell.
George W. Johnson, Brookfield.
Samuel R. Heywood, Worcester.
Adelaide A. Calkins, Springfield.
Milo Hildreth, Northborough.
M. J. Flatley, Boston.
Lyman Belknap, Westborough.

State Primary School, Monson.

Superintendent, *Gardiner Tufts*, Palmer.

State Reform School, Westborough.

Superintendent, *L. H. Sheldon*, Westborough.

State Industrial School, Lancaster.

Superintendent, *N. Porter Brown*, Lancaster.

Massachusetts School for Idiotic and Feeble-Minded Youth, South Boston.

Superintendent, *Edward Jarvis, M.D.*

Ass't Superintendent, *George G. Tarbell, M.D.*, Boston.

Trustees . . *Lewis Allen*, Peabody.
John Cummings, Woburn.
J. S. Damrell, Boston.
Samuel Eliot, Boston.
Samuel A. Green, M.D., Boston.
Charles D. Homans, M.D., Boston.
Edward Jarvis, M.D., Boston.
W. Brandt Storer, Cambridge.
John D. Washburn, Worcester.
W. W. Swan, Boston.
Stephen Salisbury, jun., Worcester.
Rev. J. F. Moors, Greenfield.

GENERAL AND SPECIAL LAWS.

I. — THE ORGANIC ACT.

An Act to create a state board of health, lunacy and charity.

[Statutes of 1879, chap. 291.]

Be it enacted, &c., as follows:

Certain state boards abolished.

Section 1. The State Board of Health, the Board of State Charities, the Boards of Trustees of the State Reform School and the State Industrial School, the Boards of Inspectors of the State Primary School, the State Almshouse, and the State Workhouse, the Advisory Boards of Women to the Inspectors of the State Almshouse and of the State Primary School, and to the Trustees of the State Reform School, and the Visiting Agency created by chapter three hundred and fifty-nine of the acts of the year eighteen hundred and seventy, are hereby abolished.

State board of health, lunacy and charity established. Terms of office.

Sect. 2. The governor, with the advice and consent of the council, shall appoint nine persons, who shall constitute a state board of health, lunacy and charity. They shall hold their offices for five years: *provided*, that the terms of office of the nine first appointed shall be so arranged that the term of one shall expire in five years, and the terms of two in four, three, two years, and one year respectively; and the vacancies so created, as well as all vacancies occurring otherwise, shall be filled by appointment or re-appointment by the governor and council.

Powers and duties.

Sect. 3. The board shall have all the powers and duties and may exercise all the functions of the boards abolished by section one hereof, and of all their bureaus and agents, including the agency thereby abolished, except as hereinafter provided; and said board may assign any of its powers and duties to agents appointed for the purpose, and may execute any of its functions by such agents, or by committees appointed from and by said board.

Board to have supervision of charitable and reformatory institutions.

Sect. 4. Said board shall have general supervision over all the state charitable and reformatory institutions mentioned herein, including the State Lunatic Hospitals, the State Almshouse, the State Workhouse, the State Primary School, the State Reform School, and the State Industrial School for Girls. And said board may, when directed by the governor, assume and exercise the powers

of the boards of trustees of said institutions, in any matter relating to the management thereof, excepting the trusts herein mentioned.

To act as commissioners of lunacy.

Sect. 5. Said board shall act as commissioners of lunacy, with power to investigate the question of the insanity and condition of any person committed to any lunatic hospital or asylum, public or private, or restrained of his liberty by reason of alleged insanity, at any place within this Commonwealth; and shall discharge any person, so committed or restrained, if in their opinion such person is not insane, or can be cared for after such discharge, without danger to others, and with benefit to such person. And the members of said board, in person or by agents, shall visit and inspect every private asylum or receptacle for the insane within the Commonwealth, at least once in every six months.

To inspect private asylums for the insane.

Contagious and infectious diseases.

Sect. 6. In case of small pox, or other contagious or infectious disease dangerous to the public health, existing or likely to exist in any place within the state, said board shall investigate the same, and the means of preventing the spread thereof; and shall consult thereon with the local authorities and shall have co-ordinate powers as a board of health, in every place, with the board of health or health officer thereof, and with the mayor and aldermen or the selectmen, when no such board or officer exists in such place.

To appoint officers and fix compensation.

Sect. 7. Said board, with the consent of the governor, shall appoint such officers as are necessary, and fix their compensation, within the limits of the annual appropriation. Said board shall be provided with rooms at the state house, and shall hold meetings each month on a day fixed by said board, and at such other times as may be needful. The board shall make its own by-laws, and shall make a report of its doings to the governor and council, on or before the thirty-first day of December in each year, such report being made up to the thirtieth day of September inclusive. It shall embody in its report a properly classified and tabulated statement of the receipts and expenses of said board and of each of the several institutions named in this act for the said year, and a corresponding classified and tabulated statement of their estimates for the year ensuing, with its opinion as to the necessity or expediency of appropriations in accordance with said estimates; but this provision shall not apply to estimates for the ordinary expenses of lunatic hospitals. Said report shall also present a concise review of the work of the several institutions herein named for the year preceding, with such suggestions and recommendations as to said institutions, and the charitable, reformatory, and health interests of the state, as may be deemed expedient. The members of said board and the members of the boards of trustees of the state institutions herein named shall receive no compensation for their services;

To hold monthly meetings.

Annual report.

To serve without compensation.

but their travelling and other necessary expenses shall be allowed and paid; and no person employed by the board shall be a member thereof.

Board of trustees to be appointed.

SECT. 8. The governor, with the advice and consent of the council, shall appoint a board of seven trustees, two of whom shall be women, who shall have charge of the government of the State Reform School at Westborough, the State Industrial School for Girls at Lancaster, and the State Primary School at Monson; and shall be known as the Trustees of the State Primary and Reform Schools. They shall hold office five years: *provided*, that the terms of the seven first appointed shall be so arranged that the term of two shall expire in one year, two in two years, one in three years, one in four years and one in five years; and the vacancies so arising, as well as vacancies otherwise occurring, shall be filled by appointment or re-appointment by the governor and council. And no person employed by the board and receiving compensation shall be a member thereof. Said board of trustees shall be a corporation, for the purpose of taking, holding and investing, to themselves and their successors, in trust for the Commonwealth, any grant or devise of lands, and any gift or bequest of money or other personal property, made for the use of the institutions of which they are trustees, or either of them; and they shall succeed to the trusts and powers heretofore held or acquired by the boards of trustees, and the treasurers of the state reform and the state industrial schools, and said board of trustees shall have the powers and perform the duties of the trustees and inspectors of the institutions named in this section, except as otherwise provided in this act.

Terms of office.

To be a corporation for purpose of holding gifts, grants or bequests.

To succeed to former trusts and powers.

Powers and duties.

Trustees of state almshouse.

SECT. 9. The governor, with the advice and consent of the council, shall appoint five persons, including two women, who shall be known as the Board of Trustees of the State Almshouse, and who shall have the powers and perform the duties now had and performed by the inspectors of said almshouse. They shall hold office for three years; but of the five first appointed, two shall hold office for three years, two for two years and one for one year; and all vacancies so occurring as well as vacancies otherwise arising shall be filled as above by appointment or re-appointment. And a like board of five shall be appointed and commissioned as above, and shall be known as the Board of Trustees of the State Workhouse, and shall have all the powers, and perform all the duties now had and performed by the inspectors of said workhouse, and make all rules and regulations for the government of the same. And no person employed by either board shall be a member thereof.

Trustees of state workhouse

Superintendents and physicians to be

SECT. 10. The superintendents and physicians of all the state institutions herein named, except the lunatic hospitals, shall be elected annually and their compensation

elected annually and compensation fixed by trustees.

fixed by the board of trustees having charge of each institution respectively, said compensation having been first approved by the governor and council; and the other officers shall be hereafter appointed, and their compensation fixed by the superintendents with the approval of the trustees: *provided*, that the amount paid for such salaries shall not exceed in the aggregate the sum appropriated by the legislature for the purpose. The officers of the state lunatic hospitals shall be appointed and paid as they now are.

Proviso.

Laws applying to boards, &c., abolished, to apply to new board.

SECT. 11. All laws applying to the boards, bureaus and agencies hereby abolished shall apply to the board created by section two of this act. All acts and parts of acts inconsistent herewith are hereby repealed.

When to take effect.

SECT. 12. This act shall take effect on the first day of July in the year eighteen hundred and seventy-nine: *provided*, that the members of said boards may be appointed at any time after the passage of this act, and may appoint agents and officers, and assign their duties before said first day of July. [*Approved April 30, 1879.*

II. — THE HEALTH LAWS.

AN ACT TO ESTABLISH A STATE BOARD OF HEALTH.

[Statutes of 1869, chap. 420.]

Board of health and vital statistics established. G. S. 26.

How appointed, &c.

SECTION 1. The governor, with the advice and consent of the council, shall appoint seven persons who shall constitute the Board of Health and Vital Statistics. The persons so appointed shall hold their offices for seven years: *provided*, that the terms of office of the seven first appointed shall be so arranged that the term of one shall expire each year, and the vacancies so created, as well as all vacancies occurring otherwise, shall be filled by the governor, with the advice and consent of the council; but any one may be re-appointed.

Board to take cognizance of the interests of health, and make sanitary investigations, &c., and report to legislature;

SECT. 2. The board shall take cognizance of the interests of health and life among the citizens of this Commonwealth. They shall make sanitary investigations and inquiries in respect to the people, the causes of disease, and especially of epidemics and the sources of mortality and the effects of localities, employments, conditions and circumstances, on the public health; and they shall gather such information in respect to those matters as they may deem proper, for diffusion among the people. They shall advise the government in regard to the location of any public institutions. They shall, in the month of January, make report to the legislature of their doings, investigations and discoveries during the year ending December thirty-first, with such suggestions as to legislative action as they may deem necessary.

SECT. 3. The board shall meet at the state house once in three months, and as much oftener as they may deem expedient. No member except the secretary shall receive any compensation, but the actual personal expenses of any member while engaged in the duties of the board shall be allowed and paid.

to meet once in three months, and serve without compensation.

SECT. 4. It shall be the duty of the board, and they are hereby instructed, to examine into and report what, in their best judgment, is the effect of the use of intoxicating liquor, as a beverage, upon the industry, prosperity, happiness, health and lives of the citizens of the state. Also, what additional legislation, if any, is necessary in the premises.

To examine into and report upon the effect of the use of intoxicating liquor as a beverage.

SECT. 5. The board shall elect a secretary, either from their own number or otherwise; but when elected he shall be a member of the board and their executive officer. He shall perform and superintend the work prescribed in this, and such other duties as the board may require. He shall receive from the treasury, in quarterly payments, an annual salary of twenty-five hundred dollars and his necessary travelling expenses incurred in the performance of official duties, after they have been audited by the board and approved by the governor and council, and all other necessary expenses arising in his office shall be paid out of the treasury in the same manner as those of the different departments of the government.

Secretary of board, how elected; his duties, compensation, &c.

SECT. 6. This act shall take effect upon its passage. [*Approved June 21, 1869.*

When act takes effect. Board abolished, by 1879, 291, sect. 1.

AN ACT CONCERNING SLAUGHTER-HOUSES AND NOXIOUS AND OFFENSIVE TRADES.

[Statutes of 1871, chap. 167.]

SECTION 1. Whoever in any city or town *containing more than four thousand inhabitants*,* erects, occupies or uses any building for carrying on therein the business of slaughtering cattle, sheep or other animals, or for melting or rendering establishments, or for other noxious or offensive trades and occupations, or permits or allows said trades or occupations to be carried on upon premises owned or occupied by him or them, without first obtaining the written consent and permission of the mayor and aldermen or selectmen of such city or town, shall forfeit a sum not exceeding two hundred dollars for every month he or they so occupy or use such building or premises, and in like proportion for a longer or shorter time: *provided*, that the terms of this section shall not apply to any building or premises now occupied or used for the trades or occupations before described; but no person or persons or corporation now occupying or using any building or premises for the trades or occupations aforesaid, shall

Slaughter-houses, &c., not to be erected in towns of more than four thousand inhabitants without permission. G. S. 26.

* Words in Italics stricken out in 1874.

enlarge or extend the same without first obtaining the written consent and permission of the mayor and aldermen or selectmen of the city or town in which such building or premises are situated in the manner provided in this section.

State board of health may order persons carrying on offensive trades to desist. G. S. 26, 1869, 420.

SECT. 2. Whenever in any city or town, containing more than four thousand inhabitants* any building or premises are occupied or used by any person or persons or corporation for carrying on the business of slaughtering cattle, sheep or other animals, or for melting or rendering establishments, or for other noxious or offensive trades, the state board of health may, if in their judgment the public health or the public comfort and convenience shall require, order any person or persons or corporation carrying on said trades or occupations, to desist and cease from further carrying on said trades or occupations in such building or premises, and any person or persons or corporation continuing to occupy or use such building or premises for carrying on said trades or occupations after being ordered to desist and cease therefrom by said board, shall forfeit a sum not exceeding two hundred dollars for every month he or they continue to occupy and use such building or premises for carrying on said trades or occupations after being ordered to desist and cease therefrom by said board as aforesaid, and in like proportion for a longer or shorter time: *provided*, that on any application to said board to exercise the powers in this section conferred upon them, a time and place for hearing the parties shall be assigned by said board and due notice thereof given to the party against whom the application is made, and the order herein before provided shall only be issued after such notice and hearing.

Penalty.

Hearing to be had after notice.

Supreme judicial court may issue injunction to prevent erection, &c., of buildings to be occupied for offensive trades. G. S. 26, §§ 52–60.

SECT. 3. The supreme judicial court, or any one of the justices thereof, in term time or vacation, shall have power to issue an injunction to prevent the erection, occupancy, use, enlargement or extension of any building or premises occupied or used for the trades or occupations aforesaid, without the written consent and permission provided in section one of this act being first obtained; and also in like manner to enforce the orders of the state board of health issued under section two of this act. [*Approved April 8, 1871.*

AN ACT TO PROVIDE FOR AN INVESTIGATION OF THE QUESTION OF THE USE OF RUNNING STREAMS AS COMMON SEWERS IN ITS RELATION TO THE PUBLIC HEALTH.

[Statutes of 1875, chap. 192.]

State board of health to investigate subject of

SECTION 1. The state board of health shall investigate, by themselves or by agents appointed by them, the subject

* Amended, chapter 308, Acts and Resolves, 1874, by striking out the words "containing more than four thousand inhabitants." (This note applies also to Sect. 1.)

of the correct method of drainage and sewerage of the cities and towns of the Commonwealth, especially with regard to the pollution of rivers, estuaries and ponds by such drainage or sewerage, and to devise and report a system or method by which said cities or towns may be properly drained, and said rivers, estuaries and ponds may be protected against pollution, so far as possible, all with the view to the preservation of the health of the inhabitants of this Commonwealth, and the securing to the several cities and towns thereof a proper system of drainage and sewerage, without injury to the rights and health of others; also, to report how far said sewage may be utilized and disposed of.

drainage and sewerage in this Commonwealth, and devise and report a system thereof; and how far sewage may be utilized. 1869, 420.

SECT. 2. Said state board of health, or agents employed by them, may enter upon and make surveys of lands, so far as may be required, and without unnecessary injury thereto, and said board may employ such assistants, with the consent of the governor, as from time to time may be expedient. They shall report to the next general court not later than the first day of February, eighteen hundred and seventy-six.

State board of health may enter upon lands and employ assistants; when to report to legislature.

SECT. 3. The compensation of the members of said state board of health or agents employed by them for services under this act, shall be fixed by the governor and council, which, with the expenses incurred by them, to be approved by the same authority, shall be paid by the treasurer of the Commonwealth on the warrant of the governor.

Compensation of board and agents, and their expenses.

SECT. 4. This act shall take effect upon its passage. [*Approved May 8, 1875.*

When act takes effect.

RESOLVE AUTHORIZING THE STATE BOARD OF HEALTH TO EXAMINE INTO THE POLLUTION OF SOURCES OF WATER SUPPLY, AND REPORT THEREON.

[Acts and Resolves of 1877, chap. 56.]

Resolved, That the state board of health be and they are hereby authorized to inquire what legislation is necessary to prevent the pollution of streams and ponds used as sources of water supply by cities and towns in the Commonwealth, with authority to make examinations, call witnesses, and to report, by bill or otherwise, to the next general court. [*Approved April 27, 1877.*

Pollution of sources of water supply.

AN ACT RELATIVE TO THE POLLUTION OF RIVERS, STREAMS AND PONDS USED AS SOURCES OF WATER SUPPLY.

[Statutes of 1878, chap. 183.]

Be it enacted, &c., as follows:

Sources of water supply not to be polluted.

SECTION 1. No person or persons, or corporation public or private, shall discharge directly, or cause to be discharged directly, human excrement into any pond in this Commonwealth used as a source of water supply by any city or town therein, or upon whose banks any filter basin so used is situated, or into any river or stream so used or upon whose bank such filter basin is situated within twenty miles above the point where such supply is taken, or into any feeders of such pond, river or stream within such twenty miles.

Sewage not to be discharged into ponds.

SECT. 2. No person or persons, or corporation public or private, shall discharge or cause to be discharged into any pond in this Commonwealth used as a source of water supply by any city or town therein, or upon whose banks any filter basin so used is situated, or into any river or stream so used or upon whose banks such filter basin is situated, within twenty miles above the point where such supply is taken, or into any feeders of such pond, river or stream within such twenty miles, any sewage, drainage, refuse or polluting matter of such quality and amount as either by itself, or in connection with other matter, shall corrupt or impair the quality of the water for domestic use, or render it deleterious to health.

Existing rights not to be impaired.

SECT. 3. The prohibitions contained in the two previous sections shall not be construed to destroy or impair rights already acquired by legislative grants, or to destroy or impair prescriptive rights of drainage or discharge, to the extent to which they lawfully exist at the date of the passage of this act; and nothing in this act contained shall be construed to authorize the pollution of any waters in this Commonwealth, in any manner now contrary to law.

This act shall not be applicable to the Merrimac or Connecticut Rivers, nor to so much of the Concord River as lies within the limits of the city of Lowell.

Sources of water supply to be under supervision of state board of health.

SECT. 4. The state board of health shall have the general supervision of all rivers, streams and ponds in this Commonwealth which are or shall be used by any city or town as sources of water supply, with reference to their purity, together with the waters feeding the same, except the Merrimac, Connecticut and Concord Rivers. It shall be the duty of said board to examine the same from time to time and to inquire what pollutions exist and their causes. Whenever a violation of any of the provisions of this act is committed the said board may, if in its judgment the public health shall require, order any person or persons, or corporation public or private, to cease and desist from such violation and to remedy the pollution or to cleanse or purify the pol-

luting substances in such a manner and to such a degree that they shall be no longer deleterious to the public health before being cast or allowed to flow into the waters thereby polluted: *provided*, that before making such order the said board shall assign a time and place for hearing the party or parties to be affected, and shall give him or them an opportunity of being heard thereon, and the orders herein before provided shall be issued only after such notice and hearing; and *provided, also*, that upon the application of any city or town to said board alleging the violation of any of the provisions of this act, and the pollution of its water supply thereby, it shall be the duty of said board to grant a hearing upon due notification of the party or parties to be affected as aforesaid, and upon proof of such violation to issue the order or orders already mentioned in this section.

Orders of board may be enforced by supreme judicial court.

SECT. 5. The supreme judicial court or any one of its justices in term time or vacation shall have power to issue an injunction to enforce the orders of the said board of health.

Orders to be served upon parties.

SECT. 6. The orders of the said board of health shall be served upon the party or parties found to have violated any of the provisions of this act, and such party or parties if aggrieved thereby shall have the right of appeal to a jury, and be subject to the provisions of law contained in the fifty-sixth and fifty-eighth sections of chapter twenty-six of the General Statutes, and chapter two hundred and sixty-three of the laws of eighteen hundred and sixty-five. During the pendency of the appeal the pollution against which the order has issued shall not be continued contrary to the order of the said board.

Right of appeal to a jury.

To take effect July 1, 1878.

SECT. 7. This act shall take effect upon the first day of July in the year eighteen hundred and seventy-eight. [*Approved April 26, 1878.*

AN ACT CONCERNING THE SEWAGE OF THE STATE PRISON IN THE TOWN OF CONCORD.

[Statutes of 1878, chap. 10.]

Sewage of state prison not to discharge into Concord River.

SECTION 1. The warden and board of inspectors of the state prison, in the town of Concord, are hereby prohibited from causing or permitting the discharge, through any sewer or drain, of any portion of the sewage of said prison into the Concord River or any of its tributaries, unless said sewage shall have been purified or cleansed in a manner satisfactory to the state board of health.

When act takes effect.

SECT. 2. This act shall take effect upon its passage. [*Approved February 13, 1878.*

AN ACT IN RELATION TO THE DISCHARGE OF SEWAGE INTO THE ROXBURY CANAL.

[Statutes of 1879, chap. 98.]

City may divert sewage now discharged into Roxbury Canal.

SECTION 1. The city of Boston is hereby authorized to divert by temporary structures the sewage now discharged into the Roxbury Canal west of the easterly line of East Chester Park, so that it shall discharge into said canal east of said easterly line; and said diversion may continue until the system of improved sewerage now being constructed in said city shall be in practical operation, but no longer.

May construct and maintain a storm overflow.

SECT. 2. The city of Boston is hereby authorized to construct and maintain a storm overflow from said system of improved sewerage, the said storm overflow to empty into said Roxbury Canal east of the easterly line of East Chester Park.

Canal to be dredged by the city whenever so ordered by the state board of health.

SECT. 3. Whenever in the opinion of twenty or more property tax payers of the city of Boston, resident within the ward or wards in which that portion of Roxbury Canal east of Chester Park lies, that part of the canal used as a storm overflow canal or basin shall require cleansing or dredging, they shall state the fact in writing to the state board of health who shall within thirty days after receipt of such notice inspect such canal or basin, and if in their judgment it shall require cleansing or dredging they shall direct the city of Boston so to cleanse or dredge within thirty days after the receipt of such notice, and when so directed the city of Boston shall within the time specified cleanse or dredge such basin or channel in a manner satisfactory to the state board of health, who shall upon the completion of the work indorse upon the order directing the same to be done, its approval thereof, with the date of said indorsement.

Expense of dredging to be assessed upon abutters.

SECT. 4. Upon the completion of said cleansing or dredging by the city of Boston, and the receipt of the approval of the state board of health thereon, the city of Boston may submit to the state board of health sworn itemized statements of the costs thereof with vouchers therefor, of which sum the board of health shall then proceed to assess such portion or portions as they shall deem just and equitable, upon the wharves and lands adjoining or abutting upon said canal or basin; but they shall have power to make assessments upon the several wharves and lands, only for the expense of removing deposits caused by the owners or occupants thereof respectively.

Assessments to be a lien upon wharves and lands so assessed.

SECT. 5. All assessments made under this act shall constitute a lien upon the wharves and lands so assessed for one year after the assessment is made and as provided in section four of this act, and may be enforced in the same manner with like charges for cost and interest as provided by law for the collection of taxes; and all said assessments which shall remain unpaid after the same become

due or payable shall draw interest from the time the same become due or payable until the time of payment thereof.

If assessment is invalid, by error in making, it may be made anew.

SECT. 6. Any assessment made under this act which is invalid by reason of any error or irregularity in the making thereof, and which has not been paid, or which has been recovered back, may be made by said state board of health to the amount for which the original assessment ought to have been made, and the same if made upon a wharf or land shall be a lien upon such wharf or land and be collected in the same manner as re-assessed taxes are.

Person aggrieved may apply to superior court within one year.

SECT. 7. Any person aggrieved by an assessment made under this act may apply by petition to the superior court for the county of Suffolk, at any term thereof within one year after said assessment is made; and after due notice to the city of Boston a trial shall be had at the bar of the court in the same manner in which other civil causes are there tried by jury.

Recovery of costs.

SECT. 8. If the jury shall not reduce the amount of the assessment complained of, the city of Boston as respondent shall recover costs against the petitioner, which costs shall be a lien upon said wharves and land and be collected in the same manner as the assessment, but if the jury shall reduce the amount of said assessment the petitioner shall recover costs from said city of Boston, and all assessments shall be a lien upon said wharves and lands, for one year after the final judgment, in any suit or proceeding where the amount or validity of the same is in question, and be collected in the same manner as original assessments.

Assessments to be lien upon lands, &c., for one year after final judgment.

Repeal.

SECT. 9. All acts and parts of acts inconsistent herewith are hereby repealed.

When act takes effect.

SECT. 10. This act shall take effect upon its passage. [*Approved March 10, 1879.*

AN ACT TO PROVIDE FOR THE DISPOSAL OF THE SEWAGE OF THE REFORMATORY PRISON FOR WOMEN AT SHERBORN.

[Statutes of 1879, chap. 214.]

Sewage of prison not to be discharged into Lake Cochituate.

SECTION 1. The superintendent and board of commissioners of the reformatory prison for women in the town of Sherborn, are hereby prohibited from causing or permitting the discharge, through any sewer or drain, of any portion of the sewage of said prison into Lake Cochituate or any of its tributaries; *provided*, that the effluent waters of lands hereafter acquired and used for sewage irrigation purposes for said prison shall not be included in the provisions of this section unless at any time they shall, in the opinion of the state board of health, become of such nature as to constitute a pollution within the meaning of chapter one hundred and eighty-three of

Proviso.

the acts of the year eighteen hundred and seventy-eight; which opinion, being expressed in writing to said board of commissioners, shall make said effluent waters subject to all the provisions of this section.

Commissioners may take land for storage or disposition of sewage.

SECT. 2. The said board of commissioners of the reformatory prison for women is hereby authorized on behalf of the Commonwealth to take and hold, by purchase or otherwise, under the direction and approval of the governor and council, such lands as may be necessary for the proper conveyance, storage or distribution of the sewage of the reformatory prison for women, and may take and hold, by purchase or otherwise, the buildings situate on any such land, or erect or repair thereon such buildings, dams, works and machinery as may be necessary for the disposal of the sewage of said prison, and may take and hold, by purchase or otherwise, all or any rights or easements in such land, with all rights of way, through, over or under any private lands, road, water course, or other way, and may enter upon and dig thereon for the purposes of construction and of making all necessary repairs, and may carry its drains through or under any street or highway or other ways in such manner as not unnecessarily to obstruct the same, and may, under the direction of the selectmen of the town of Sherborn, enter upon and dig up any such road or way for the purposes of laying or repairing its sewers or drains; and said commissioners may construct and maintain all necessary pipes, conduits, works and machinery necessary for the proper conveyance of the sewage of said prison to such lands and its distribution thereon in such manner as said commissioners, with the approval of the governor and council, shall determine: *provided*, that not more than two thousand dollars of the sum appropriated for the purposes of this act shall be expended in the repairs of any buildings which may be acquired with any land taken, by purchase or otherwise, for the purposes of this act; and *provided*, that within sixty days after the taking of any lands or buildings, rights or easements in such lands, under this act, the said commissioners shall file in the registry of deeds for the southern district of the county of Middlesex, a description thereof sufficiently accurate for identification, with a statement of the purpose for which the same is taken, and signed by said commissioners or a majority of them; and the title thereto shall thereupon vest in the Commonwealth, but no such record shall be valid unless accompanied by the certificate of approval of the governor and council, to be filed therewith.

May dig up roads, &c., under direction of selectmen.

Proviso.

Description of land taken, to be filed in registry of deeds.

Assessment of damages.

SECT. 3. Any person or corporation injured or damaged by any thing done by said commissioners under authority of this act, and failing to agree with said commissioners as to the amount of such damages, may have them assessed and determined in the manner provided where land is taken for highways; but all such claims for

assessment of damages shall be instituted within one year of the taking complained of, and the damages so assessed and determined shall be paid out of the treasury of the Commonwealth.

Expenses not to exceed $13,000.

SECT. 4. The said commissioners are hereby authorized to carry out the provisions of this act at an expense not exceeding thirteen thousand dollars, and all moneys therefor shall be expended under and by the approval of the governor and council.

When to take effect.

SECT. 5. The provisions of section one of this act shall take effect at such time as the governor and council shall determine that the sewage works contemplated and provided for by section two of this act have substantially been put in operation. The remaining sections of the act shall take effect upon the passage of the act. [*Approved April 11, 1879.*

AN ACT TO PROVIDE FOR CERTAIN RETURNS TO BE MADE BY WATER BOARDS, WATER COMMISSIONERS AND WATER COMPANIES.

[Statutes of 1879, chap. 270.]

Water boards and water companies to make annual returns to the state board of health.

SECTION 1. The several water boards, water commissioners and water companies making use as a source of water supply, of any pond, lake, river, brook, stream, reservoir or well, within the Commonwealth, and distributing the waters thereof for public, domestic and general uses, are hereby required to make true and correct returns to the state board of health on or before the first day of November in every third year, beginning with the year eighteen hundred and seventy-nine, of the facts as hereinafter enumerated: *provided*, that the expense incurred by said boards, commissioners or companies shall not exceed fifty dollars. And said board of health shall publish triennially, in its report to the legislature, the returns received, arranged by counties separately, and those from each county alphabetically.

Form of return.

SECT. 2. Each of the several water boards, commissioners and companies, required to make returns by the provisions of section one of this act, shall state in the proper places on the blanks which the state board of health shall, on application, furnish for the purpose, — 1. Its name, charter or other legal basis, and place of business. 2. The source or sources of its water supply, and the name, if any, and location of each. 3. The superficial area of its water surface, if lake, pond, reservoir or large well. 4. The area of water-shed supplying such source or sources. 5. The general geological and topographical character of the water-shed. 6. The estimated capacity of each such source by average daily flow. 7. The estimated capacity of each such source by minimum

daily flow. 8. Whether the water-shed is also wholly or in part that of other lakes, rivers, ponds or reservoirs, besides that used by the party making return; and if so, to what extent. 9. Whether or not the source employed by the party making return is used jointly by some other for a water source; and if so, by whom. 10. Whether there are other sources within ten miles, not already appropriated by law, that could be availed of in connection with the source or sources now enjoyed by the party making return; and if so, what, and their location, area, water-shed, and the means necessary to connect, with the distance from present source, and from territory to be supplied. 11. What danger of contamination the waters at present held are liable to. 12. Whether or not an analysis has been made of the water at present used, and the results of any such; by whom and where. 13. Whether the waters at present used have been stocked with fish; if so, to what extent, by whom, and where. 14. What, up to date, has been the cost of the water works in use; including rights, lands taken, and all damages paid; stating cost of water rights separately, and to whom paid. 15. Whether the storage capacity of the present source can be increased, and at what probable cost, exclusive of damage by flowage, and at what damage to private parties or corporations. 16. Whether any town, village, or city, discharges its sewers or drains into the source used by the returning party, or their tributaries. 17. The population of the town, city or village, so discharging its sewers or drains into said source, and the character of its manufactures; and, 18. The apparent results of such sewage. 19. The average daily consumption, for the year, of the population supplied by the party making return. 20. The per centum used by families. 21. The average consumption per family, per diem. 22. The probable increase of demand, as near as can be estimated for the next year. 23. The water-rates established. 24. The system of distribution, whether by gravity, stand pipe, direct pumping, reservoir or otherwise. 25. The condition of water debt and sinking fund. 26. How the effluent water is now got rid of. 27. Into what stream or body of water it finally flows. 28. What protection against impurity of present source not now provided is desired. 29. What additional expense such protection would involve, and to whom.

State board of health to furnish the blanks for returns.

SECT. 3. The state board of health shall prepare and furnish the requisite and proper blanks for said returns, on application from the parties whose duty it is, or shall be, to make said returns; and any water board, commissioners or company required by the provisions of this act to make such returns shall, for every neglect or failure so to do, forfeit and pay the sum of fifty dollars to the use of the local board of health, or the proper officers acting as such, of the city or town in which such delinquent

Penalty for neglect to make return.

water board, commissioners or company has its principal office. And the state board of health shall prosecute, by an action of tort, in the name of the Commonwealth, for the recovery of the penalty or forfeit herein imposed.

SECT. 4. This act shall take effect upon its passage. [*Approved April 25, 1879.*

When act takes effect.

AN ACT RELATING TO THE SMALL-POX AND OTHER DISEASES DANGEROUS TO THE PUBLIC HEALTH, AND PROVIDING FOR THE RE-IMBURSEMENT OF EXPENSES INCURRED IN RELATION THERETO.

[Statutes 1874, chap. 121.]

SECTION 1. In any case arising under the provisions of the twenty-sixth chapter of the General Statutes and the acts in addition thereto, in which the board of health shall have acted, said board of health shall retain charge of the same to the exclusion of the overseers of the poor of any city or town.

Board of health to retain charge of case, to exclusion of overseers of poor. G. S. 26.

SECT. 2. All reasonable expenses which have been heretofore, or may hereafter be incurred by the board of health of any city or town, in making the provision required by law for any person infected with the small-pox or any other disease dangerous to the public health, shall be paid by the person himself, his parents, or master, if able; otherwise by the town in which he has a legal settlement, and if he has no settlement in any town, by the Commonwealth, in which case the bills therefor shall be approved by the board of state charities.

Expenses, how to be paid.

SECT. 3. This act shall take effect upon its passage. [*Approved March 30, 1874.*

When act takes effect.

AN ACT RELATING TO SMALL-POX.

[Statutes 1872, chap. 189.]

SECTION 1. Section fifty-one of the twenty-sixth chapter of the General Statutes is hereby amended by inserting after the word forty-six the following: so far as they confer authority for the removal of patients from their homes, except in case of persons residing in boarding houses, hotels, or where two or more families occupy the same dwelling, and in all other cases, where in the opinion of the board of health and the attending physician the case cannot be properly isolated.

Provisions of law respecting infected persons to apply to cases of small-pox, &c. G. S. 26, § 51.

SECT. 2. This act shall take effect upon its passage. [*Approved April 12, 1872.*

When act takes effect.

DANGEROUS DISEASES.

Hospitals may be provided by towns; R. S. 21, § 35.

G. S. c. 26, Sect. 40. Any town may establish within its limits, and be constantly provided with, one or more hospitals for the reception of persons having a disease dangerous to the public health.

to be under orders of board of health. R. S. 21, § 36.

Ibid., Sect. 41. Such hospitals shall be subject to the orders and regulations of the board, or of a committee of the town appointed for that purpose.

Hospitals not to be within, &c. R. S. 21, § 37.

Ibid., Sect. 42. No such hospital shall be established within one hundred rods of an inhabited dwelling-house situated in an adjoining town, without the consent of such town.

Physicians, &c., in hospitals, subject to board of health. R. S. 21, § 39.

Ibid., Sect. 43. When a hospital is so established, the physician, nurses, attendants, the persons sick therein, and all persons approaching or coming within the limits of the same, and all furniture and other articles used or brought there, shall be subject to such regulations as may be made by the board of health or the committee appointed for that purpose.

Hospitals not to be erected or occupied without consent of town or city authorities. G. S. 26.

Acts of 1870, c. 306. Whoever erects, occupies, or uses any building in any place, for a hospital, in such part thereof as the mayor and aldermen, or selectmen prohibit, shall forfeit a sum not exceeding fifty dollars for every month he so occupies or uses such building, and in like proportion for a longer or shorter time; and the supreme judicial court, or any one of the justices thereof, either in term-time or vacation, may issue an injunction to prevent such erection, occupancy or use.

Board of health to provide hospital, &c., and remove sick, &c. 1837, 244, § 2. 1848, 119.

See § 51, and 1872, 189.

G. S. c. 26, Sect. 44. When a disease dangerous to the public health breaks out in any town, the board shall immediately provide such hospital or place of reception for the sick and infected as is judged best for their accommodation and the safety of the inhabitants; which shall be subject to the regulations of the board; and the board may cause any sick and infected person to be removed thereto, unless the condition of such person will not admit of his removal without danger to his health, in which case the house or place where he remains shall be considered as a hospital, and all persons residing in or in any way concerned within the same shall be subject to the regulations of the board as before provided.

Selectmen to give notice of infected places. R. S. 21, § 41. 1838, 158. See § 51, and 1872, 189.

Ibid., Sect. 45. When such disease is found to exist in a town, the selectmen and board of health shall use all possible care to prevent the spreading of the infection, and to give public notice of infected places to travellers, by displaying red flags at proper distances, and by all other means which in their judgment shall be most effectual for the common safety.

[Amended by the following addition.]

[Statutes 1873, chap. 2.]

Penalty for obstructing means used to prevent spreading of infection, &c. G. S. 26, §§ 45, 51. 1872, 189.

Sect. 2. And whoever obstructs the selectmen, board of health or their agent, in using such means to prevent the spreading of the infection, or wilfully removes, obliterates, defaces or handles the red flags or other signals so displayed, shall forfeit for each offense a sum not less than ten or more than one hundred dollars.

Penalty on persons in hospitals, &c., for violating regulations. R. S. 21, § 42. 1838, 158. See § 51, and 1872, 189.

Ibid., Sect. 46. If a physician or other person in any of the hospitals or places of reception before mentioned, or who attends, approaches, or is concerned with the same, violates any of the regulations lawfully made in relation thereto, either with respect to himself, or his or any other person's property he shall for each offense forfeit a sum not less than ten nor more than one hundred dollars.

Householders to give notice of dangerous diseases. Penalty. R. S. 21, § 43.

Ibid., Sect. 47. When a householder knows that a person within his family is taken sick of small-pox or any other disease dangerous to the public health, he shall immediately give notice thereof to the selectmen or board of health of the town in which he dwells. If he refuses or neglects to give such notice, he shall forfeit a sum not exceeding one hundred dollars.

Penalty on physician for not giving notice of dangerous disease. R. S. 21, § 44.

Ibid., Sect. 48. When a physician knows that any person whom he is called to visit is infected with small-pox or any other disease dangerous to the public health, he shall immediately give notice thereof to the selectmen or board of health of the town; and if he refuses or neglects to give such notice, he shall forfeit for each offense a sum not less than fifty nor more than one hundred dollars.

Expenses recoverable of individuals; how sued for. 1849, 211, § 6. 98 Mass. 442.

Ibid., Sect. 49. Expenses incurred by a town in the removal of nuisances or for the preservation of the public health, and which are recoverable of a private person or corporation by virtue of any provisions of law, may be sued for and recovered in an action of contract.

Fines and forfeitures to inure to use of town. 1849, 211, § 7.

Ibid., Sect. 50. Fines and forfeitures incurred under general laws, the special laws applicable to a town, or the by-laws and regulations of a town relating to health, shall inure to the use of such town.

Small-pox. 1838, 158; 1840, 39; 1848, 119. See 1872, 189.

Ibid., Sect. 51. The provisions of sections sixteen, seventeen, forty-four, forty-five and forty-six, shall not apply to small-pox.

[Amended by inserting the following after the word forty-six.]

[Statutes 1872, chap. 189.]

Provisions of law respecting infected persons to apply to cases of small-pox, &c. G. S. 26, § 51.

Section 1. . . . so far as they confer authority for the removal of patients from their homes, except in case of persons residing in boarding-houses, hotels, or where two or more families occupy the same dwelling, and in all other cases, where in the opinion of the board of health and the attending physician the case cannot be properly isolated.

AN ACT RELATING TO THE RESTRAINING AND MUZZLING OF DOGS.

[Statutes of 1877, chap. 167.]

. . . . . .

License for dogs to contain description of symptoms of hydrophobia. 1867, 130.

SECT. 4. Every license issued to the owner of any dog in this Commonwealth shall have printed thereon a description of the symptoms of the disease in dogs known as hydrophobia, said description to be supplied by the secretary of the state board of health to the clerks of the several cities and towns of the Commonwealth upon application therefor.

. . . . . .

[*Approved April 27, 1877.*

III. — THE LUNACY LAWS.

[In order to exhibit clearly the present scope, requirements, and permissions of the complicated lunacy laws of Massachusetts, they will here be presented in a logical order, without strict regard to the order of time in which the different acts were passed. First will be shown the jurisdiction and details of commitment in regard to insane persons of all classes; then the nature and management of the establishments to which they are committed; thirdly, their visitation and legal privileges; and, finally, the manner of their discharge. A supplement is added concerning idiots.]

A. THE COMMITMENT OF LUNATICS.

[Statutes 1879, chap. 195.]

AN ACT CONCERNING THE COMMITMENT OF LUNATICS TO HOSPITALS.

Justices of the supreme judicial and superior courts may commit insane persons to lunatic asylums. 1862, 223.

SECTION 1. Each justice of the supreme judicial court, and of the superior court, in any county where he may at any time be, and each justice of any municipal, police or district court within the county where established, shall have the same power, with all the incidents thereof, to commit insane persons to lunatic hospitals that judges of probate courts have within their counties.

No person to be committed without an order of court.

SECT. 2. No person shall be committed to any lunatic hospital, or asylum or other receptacle for the insane, public or private, without an order for such commitment signed by a justice of the supreme judicial court or superior court then being in the county where such person then is or resides, or by a judge of the court of probate for said county, or by a justice of a municipal, police or district

court in the county where established, and said person being or residing within such jurisdiction. Such order shall state, that the justice or judge finds, that the person committed is insane and is a fit person for treatment in an insane asylum. And said justice or judge shall see and examine the person alleged to be insane, or state in his final order the reason why it was not deemed necessary or advisable to do so. The hearing, except when a jury is summoned, shall be at such place as the judge or justice shall appoint.

Order to state that person committed is insane

Sect. 3. No person shall be committed as above, unless, in addition to the oral testimony there shall have been filed with the judge or justice a certificate signed by two physicians, each of whom shall be a graduate of some legally organized medical college, shall have practised three years in the state, and neither of whom shall be connected with any hospital or other establishment for treatment of the insane. Each must have personally examined the person alleged to be insane within five days of signing the certificate; and each shall certify, that, in his opinion said person is insane and a proper subject for treatment in an insane hospital. And he shall specify the facts, on which his opinions are founded. A copy of the certificate, attested by the judge or justice committing, shall be delivered by the officer or other person making commitment to the superintendent of the hospital or other place of commitment, and shall be filed and kept with the order.

Certificate of insanity signed by two regular physicians to be filed with judge.

[Statutes 1879, chap. 222.]

An Act concerning the fee for certificates of insanity.

Section 1. The fee for giving the certificate required by section eight of chapter two hundred and twenty-three of the acts of the year eighteen hundred and sixty-two, and by the acts amending the same, is hereby fixed at two dollars for each physician, with twenty cents for each mile travelled one way.

Fee of physician for certificate of insanity.

Sect. 2. This act shall take effect upon its passage. [*Approved April 16, 1879.*

[Above is the present general law regulating the commitment of lunatics. The "power, with all the incidents thereof, to commit insane persons to lunatic hospitals, that judges of probate courts have within their counties," is derived from an act of 1862, enlarging the power given to probate judges by the older statutes. The act of 1862 is therefore first cited.]

[Statutes 1862, chap. 223.]

Sect. 3. Any of the judges of the supreme judicial, superior, and probate courts, and, in the city of Boston,

Insane persons, how

committed to; on what evidence, &c. G. S. 73, 74. See 1864, 288, § 7. 1867, 355, § 1. 11 Gray, 107.

of the police court, may commit to either of the state lunatic hospitals any insane person who, in their opinion, is a proper subject for its treatment or custody. But in all cases, the evidence and certificate of at least two respectable physicians shall be required to establish the fact of insanity. In all cases the judge shall certify in what place the lunatic resided at the time of his commitment; or if ordered to be confined by any court, the judge shall certify in what place the lunatic resided at the time of the arrest in pursuance of which he was held to answer before such court; and such certificate shall, for the purposes of this act, be conclusive evidence of his residence.

On application for commitment to, notice to be first given to selectmen, &c.;

SECT. 4. Any person applying for the commitment or for the admission of a lunatic to a state lunatic hospital, under the provisions of this act, shall first give notice in writing to the mayor, or one or more of the selectmen, of the place where the lunatic resides, of his intention to make such application; and satisfactory evidence that such notice has been given shall be produced to the judge in cases of commitment, and to the trustees upon applications for admission.

and statement to be filed with judge. See 1865, 268, § 2;

SECT. 5. Upon every application for the commitment or admission of an insane person to any hospital or asylum for the insane, there shall be filed with the application, or within ten days after the commitment or admission, a statement in respect to such person, showing as nearly as can be ascertained his age, birthplace, civil condition, and occupation; the supposed cause and the duration and character of his disease, whether mild, violent, dangerous, homicidal, suicidal, paralytic, or epileptic; the previous or present existence of insanity in the person or his family; his habits in regard to temperance; whether he has been in any lunatic hospital, and if so, what one, when, and how long; and, if the patient is a woman, whether she has borne children, and, if so, what time has elapsed since the birth of the youngest; the name and address of some one or more of his nearest relatives or friends, together with any facts showing whether he has or has not a settlement, and if he has a settlement, in what place; and if the applicant is unable to state any of the above particulars, he shall state his inability to do so. The statement, or a copy thereof, shall be transmitted to the superintendent of the hospital or asylum, to be filed with the order of commitment, or the application for admission.

and sent to superintendent, &c.

[Statutes 1865, chap. 268.]

Applicant for reception of any person to a lunatic hospital to file statement of cer-

SECT. 2. Upon application for the admission of an insane person to any state lunatic hospital, or to any asylum or private house for the reception of the insane, the applicant shall file with his application a statement containing the names and address of such insane person's

father, mother, children, brothers, sisters, or other next of kin, not exceeding ten in number, and over eighteen years of age, when the names and address of such relatives are known by the person or persons making such application, and such statement shall be filed with the order of commitment or application for admission. And the superintendent, or person in charge of such asylum or house for the reception of the insane, shall, within two days from the time of the admission or commitment of any insane person, send, or cause to be sent, notice of said commitment in writing, by mail, postage prepaid, to each of said relatives, and to any other two persons whom the person committed shall designate.

tain facts, and superintendent to notify relatives. G. S. 73, 1862. 223, § 5.

[Statutes 1862, chap. 223.]

Sect. 6. The judge may hear and determine such applications, in respect to persons alleged to be insane, at such times and places as he may appoint; and the presence of the alleged lunatic at the hearing may be required or dispensed with, in the discretion of the judge; and the court may, in its discretion, issue a warrant to the sheriff, or his deputy, directing him to summon a jury of six lawful men, to hear and determine whether the alleged lunatic is insane. Whenever a jury is summoned, pursuant to the provisions of this section, the same proceedings shall be had and the same fees and expenses paid as are provided by the General Statutes, chapter seventy-three, sections twelve, thirteen, fourteen, fifteen, and sixteen.

Cases where and how heard. G. S. 73, §§ 12–16. 11 Gray, 107.

[General Statutes, chap. 73.]

Sect. 12. The jurors shall be selected in equal numbers from the place in which the trial is had, and one or two adjoining places, as the judge shall direct; and the same proceedings shall be had in selecting and empanelling the jury as are prescribed in chapter forty-three; *provided*, that in the counties of Suffolk and Nantucket all the jurors may be taken from the same place.

How jury to be selected and impanelled. 1837, 228, § 2. See 1862, 223, § 6.

Sect. 13. The judge shall preside at such trial, and administer to the jury an oath faithfully and impartially to try the issue, and the verdict of the jury shall be final on the complaint.

Judge to preside. Verdict. 1837, 228, § 3.

Sect. 14. If by reason of challenges or otherwise there is not a full jury of the persons summoned, the judge shall cause the officer who served the summons, or in his absence the officer attending the jury, to return suitable persons to supply the deficiency; and shall have the same authority as the supreme judicial court to enforce the attendance of jurors and witnesses, and inflict fines for non-attendance.

How deficiency in jury supplied. 1837, 228, § 4.

Sect. 15. The officer who summons and attends the jury shall receive therefor four cents a mile for all necessary travel, and one dollar and fifty cents for each day that he attends upon them; and the jurors and witnesses

Fees of jurors, &c. R. S. 24, § 29. 1837, 228, § 2.

1848, 271. 1855, 120, § 1.

shall be entitled to such compensation as is prescribed for jurors and witnesses in the supreme judicial court.

Expenses of trial. 1837, 228, § 5. See 1862, 223, § 7.

SECT. 16. The expenses of the trial, including the fees of all necessary witnesses, shall be allowed and certified by the judge, and paid out of the county treasury.

Fees of judges for committing and discharging lunatics; 1850, 235.

SECT. 17. There shall be allowed to each judge of the probate court, for receiving, hearing, and determining, every application made to him for the commitment of a lunatic, a fee of two dollars, to be paid out of the county treasury. The judges shall present their account for such fees as often as once in each year, to the county commissioners, who shall audit and allow them, if found correct. There shall be allowed to the judge of the probate court for receiving, hearing, and determining an application for the discharge of a lunatic from either hospital, two dollars, to be paid by the party making the application.

[Statutes 1862, chap. 223.]

Fees of officers, &c., and how paid; G. S. 73, §§ 16, 17. 1862, 216.

SECT. 7. Whenever application shall be made to any judge of probate for the commitment of an insane person under the provision of this act, he may allow to the sheriff, deputy-sheriff, or constable, or other person to whom a precept is directed by name, who may serve the same, the same fees as are allowed to officers upon the commitment of persons to prison, and such further sum for expenses incurred in said commitments, or in bringing such lunatic before the judge, as to him may seem reasonable; and the sums so allowed shall be certified and paid, as provided in the General Statutes, chapter seventy-three, section sixteen.

[General Statutes, chap. 73.]

of officers for committing to be allowed by court and made up in the general bill. 1838, 31. See 1862, 223, § 6.

SECT. 18. The superior court may allow to any sheriff, constable, or other person to whom a precept is directed by name, who may commit any person to either hospital, the same fees as are allowed to officers upon the commitment of persons to prison, and such further sums for expenses incurred in said commitments as to the court may seem reasonable; and the sums so allowed shall be made up in the general bill of costs for the term of the court at which the allowance is made.

[Statutes 1864, chap. 288.]

Overseers of poor to commit pauper insane person to hospital. G. S. 70, 1862, 223, § 9.

SECT. 6. It shall be the duty of the overseers of the poor of any city or town, except the city of Boston, to commit to one of the state lunatic hospitals, or the Boston lunatic hospital, with the consent of the trustees thereof, any person supported by such city or town who is suffering under recent insanity, and is a fit subject for remedial treatment.

Board of state charities to apply for commitment to hospital

SECT. 7. Whenever the board of state charities shall have reason to believe that any insane person, not incurable, is deprived of proper remedial treatment, and is confined in any almshouse or other place, whether such

insane person is a public charge or otherwise, it shall be the duty of said Board to cause application to be made to one of the judges of the supreme judicial, superior, or probate courts, for the commitment of such person to a hospital in the manner prescribed by law.

of insane persons deprived of proper treatment, &c. G. S. 73. 1862, 223, § 3. 1863, 240.

[General Statutes, chap. 172.]

SECT. 14. When a person indicted is at the time appointed for the trial found to the satisfaction of the court to be insane, the court may cause him to be removed to one of the state lunatic hospitals for such a term and under such limitations as they may direct.

Prisoner found insane to be sent to hospital. 1874, c. 370.

[Statutes 1862, chap. 223.]

SECT. 17. When a person held in prison on a charge of having committed an indictable offence is not indicted by the grand jury, or on trial is acquitted by the jury by reason of insanity, the jury in either case shall certify that fact to the court, and thereupon, if the court is satisfied that he is insane, they may order him to be committed to one of the state lunatic hospitals under such limitations as they may direct.

Persons acquitted of crimes, or not indicted by reason of insanity, how sent to state hospitals. G. S. 171, 172. 1873, c. 227.

LUNATICS IN THE STATE PRISON.

[General Statutes, chap. 180.]

SECTION 1. The physician of the state prison as chairman, with the superintendents of the state lunatic hospitals, shall constitute a commission for the examination of convicts in said prison alleged to be insane. Each commissioner shall receive for his services in such capacity his travelling expenses and three dollars a day for each day he is so employed, which shall be charged to the prison.

Commissioners; 1844, 120, § 3. 1856, 135. See 1862, 8.

SECT. 2. When a convict in the prison appears to be insane, the warden or inspectors shall give notice thereof to the chairman of said commission, who shall forthwith notify the members thereof to meet at the prison.

to be notified by warden, &c., of insanity of convicts. 1844, 120, § 1.

SECT. 3. The commission shall investigate the case, and if, in the opinion of a majority of them, the convict has become insane, and his removal would be expedient, they shall so report, with their reasons, to a judge of the superior court, who shall forthwith issue his warrant under the seal of that court, directed to the warden, authorizing him to remove the convict to one of the state lunatic hospitals, there to be kept till, in the opinion of the superintendent and trustees thereof, he may be recommitted consistently with his health. The superintendent when so satisfied shall certify the fact of such restoration upon the warrant, and give notice to the warden, who shall thereupon cause the convict to be reconveyed to the prison, there to remain pursuant to his original sentence,

Insane convicts to be removed to hospital, &c. 1844, 120, §§ 1, 2. 1853, 318, § 1. 1856, 247, § 3. See 1879, 291, § 3.

computing the time of his confinement in the hospital as part of the term of his imprisonment.

[Statutes 1862, chap. 8.]

Commission for examination of lunatics in state prison, how constituted. G. S. 180, § 1. 1862, 165.

SECTION 1. The commission for the examination of convicts in the state prison alleged to be insane, provided for in the one hundred and eighteenth chapter of the General Statutes, shall hereafter consist of the physician of the state prison, as chairman, the superintendents of the state lunatic hospitals at Worcester and Taunton, together with the superintendents of the McLean Asylum at Somerville and the Boston lunatic hospital.

LUNATICS IN OTHER PRISONS.

Insane prisoners how removed to hospitals; R. S. 145, § 1. 1853, 259. 1853, 318, § 1. 1855, 449. 1856, 247, § 3. See 1864, 288, § 10. 12 Allen, 510.

SECT. 4. When a convict in a prison other than the state prison, or in the house of correction, appears to be insane, the physician attending the prison or house of correction shall make a report thereof to the jailer or master, who shall transmit the same in the county of Suffolk to a judge of the superior court, and in any other county to a judge of the probate court. The judge shall make inquiry into the facts therein stated, and if satisfied that such convict is insane, he may, at any time he deems necessary, cause such prisoner to be removed to one of the state lunatic hospitals.

If sane before term expires, to be returned. R. S, 145, § 2. 1853, 259.

SECT. 5. If a person so removed is restored to sanity before the expiration of his sentence, he shall be forthwith returned to the prison or house of correction from which he was removed, there to remain, pursuant to his original sentence, computing the time of his confinement in the hospital as part of the term of his imprisonment.

B. HOSPITALS, ASYLUMS, AND RECEPTACLES.

THE STATE AND CITY LUNATIC HOSPITALS.

[In order to present at once a marginal list of the statutes, old and new, regulating these establishments, the act conferring corporate powers upon the trustees of the newest state hospital — that at Danvers — is first reprinted here; followed by the unrepealed laws concerning the older hospitals, and by the almost obsolete statutes in regard to the old-fashioned county receptacles for the insane, — of which that at Ipswich in Essex County is the sole remainder. The act establishing the Chronic Insane Asylum, in the old Worcester Hospital, follows the Danvers Act immediately.]

[Statutes 1877, chap. 252.]

AN ACT AUTHORIZING THE APPOINTMENT OF TRUSTEES FOR THE STATE LUNATIC HOSPITAL AT DANVERS.

State lunatic hospital at Danvers, appointment of trustees; laws relating to other hospitals to apply to. G. S. 73. 1862, 223. 1863, 240, § 2. 1864, 288. 1865, 268. 1871, 321. 1873, 227, 275. 1874, 258, § 2. 1874, 363.

SECTION 1. The government of the state lunatic hospital at Danvers shall be vested in a board of five trustees, to be appointed in the same manner and with the same powers and duties as are prescribed in the seventy-third chapter of the General Statutes and all existing acts in addition thereto and modification thereof for the government of the state lunatic hospitals at Worcester, Taunton and Northampton. And all the provisions of said chapter and the acts in addition thereto and modification thereof, so far as the same can be made applicable, are hereby extended and made applicable to the management of said state lunatic hospital at Danvers.

Trustees to complete work not included in contracts.

SECT. 2. The trustees to be appointed under this act are hereby authorized to complete all necessary work not included in contracts made by the present commissioners; and on the first day of October next, said trustees shall assume full and exclusive management and control of said hospital and all matters and contracts relating thereto; and when said hospital is finished and ready to receive patients, give notice thereof to his excellency the governor and to the secretary of the board of state charities, and after the receipt of such notice patients may be committed to said hospital, or transferred thereto from other hospitals or prisons, in the same manner as they may now be to either of the state lunatic hospitals.

When act takes effect.

SECT. 3. This act shall take effect upon its passage. [*Approved May 17, 1877.*

[Statutes 1877, chap. 227.]

AN ACT ESTABLISHING AN ASYLUM FOR THE CHRONIC INSANE.

Asylum for the chronic insane at Worcester; G. S. 73.

SECTION 1. There shall be established at Worcester a temporary asylum for the chronic insane, and so much of the land and buildings there situate heretofore used for a lunatic hospital, as the trustees thereof may deem necessary, is hereby appropriated for the use of such asylum.

to be in charge of trustees of Worcester hospital.

SECT. 2. The trustees of Worcester lunatic asylum are hereby invested with the same authority relative to the management and government of said asylum, the care of the inmates thereof, the custody of its funds, and the collection and disbursement of moneys for and on account of it, and to the same extent, as if the asylum was a part of said hospital: *provided*, *however*, that the inmates thereof shall consist only of such chronic insane as may be transferred thereto by the board of state charities in the manner provided in section four of chapter two hun-

Inmates to be sent by board of state charities. 1863, 240 § 4.

dred and forty of the acts of the year eighteen hundred and sixty-three.

Trustees may sell land. 1870, 238, § 4.

SECT. 3. Said trustees are hereby authorized to sell and convey any land heretofore used by said hospital, not necessary for the purpose of the asylum, in accordance with the provisions of section four of chapter two hundred and thirty-eight of the acts of the year eighteen hundred and seventy.

When act takes effect.

SECT. 4. This act shall take effect on the first day of September next. [*Approved May 15, 1877.*

[Statutes 1862, chap. 223.]

State lunatic hospitals, titles of. G. S. 73.

SECTION 1. The titles of the state lunatic hospitals shall be severally, The Worcester Lunatic Hospital, The Taunton Lunatic Hospital, and The Northampton Lunatic Hospital.

[General Statutes, chap. 73.]

Government of each hospital vested in five trustees. Appointment and term of office of trustees. R. S. 48, § 17. 1856, 247, § 1. 1859, 177, § 3. See 1862, 223, § 1.

SECTION 1. The government of each of the state lunatic hospitals at Worcester, Taunton, and Northampton, shall be vested in a board of five trustees, appointed and commissioned by the governor with the advice and consent of the council, subject to removal only for sufficient cause. The trustees now in office shall continue to hold their offices until the terms thereof expire according to the provisions of this section. On the first Wednesday of February in each year the term of office of the senior member in each board, as they stand arranged on the list of their appointments, shall terminate, and the name of the person appointed to fill the vacancy shall be placed at the bottom of the list, and other vacancies may at any time be filled, and the names of the persons appointed substituted in the list for the remainder of the vacant terms.

Trustees may take and hold grants, &c., and invest proceeds. R. S. 48, § 2. 1842, 96, § 1. 1853, 318, § 1. 1856, 247, § 3.

SECT. 2. The trustees of each hospital shall be a corporation for the purpose of taking and holding, to them and their successors, in trust for the Commonwealth, any grant or devise of lands, and any donation or bequest of money, or other personal property, made for the use of the institution of which they are the trustees, and for the purpose of preserving and investing the proceeds thereof in notes or bonds secured by good and sufficient mortgages or other securities, with all the powers necessary to carry said purposes into effect.

Trustees, powers and duties of. R. S. 48, § 2. 1853, 318, § 1. 1856, 247, § 3.

SECT. 3. They shall take charge of the general interests of the institution, and see that its affairs are conducted according to the requirements of the legislature and the by-laws and regulations which the board shall establish for the internal government and economy there-

of; and they shall be reimbursed all expenses incurred in the discharge of their official duties. See 1862, 223, § 12.

SECT. 4. They shall establish by-laws and regulations, with suitable penalties, for the internal government and economy of the institution; shall appoint a superintendent who shall be a physician and constantly reside at the hospital; and a treasurer who shall give bonds for the faithful discharge of his duties; and shall appoint, or make provision in the by-laws for appointing, such officers as in their opinion may be necessary for conducting efficiently and economically the business of the institution; and shall determine, subject to the approval of the governor and council, the salaries of all the officers. All their appointments shall be made in such manner, with such restrictions, and for such terms of time, as the by-laws may prescribe. To make by-laws, appoint officers, fix salaries, &c. R. S. 48, § 3. 1853, 318, § 1. 1856, 247, § 3.

SECT. 5. The salaries of the superintendents, assistant-physicians, stewards and matrons of the state lunatic hospitals, shall be paid quarterly from the current receipts of the several hospitals. Salaries, how paid. 1859, 107, § 1.

SECT. 6. There shall be thorough monthly visitations of each hospital by two of the trustees thereof, and quarterly by a majority of them, and semi-annually by the whole board, at each of which a written account of the state of the institution shall be drawn up, which shall be presented at the annual meeting to be held between the first and fifteenth days of October. At the annual meeting a full and detailed report shall be made, exhibiting a particular statement of the condition of the hospital and all its concerns, with a list of the salaried officers and their salaries, and in a tabular form, under the heads specified in section eleven of chapter five, the value of the stock and supplies, to be laid before the governor and council on or before the fifteenth day of October, for the use of the government; and at the same meeting the treasurer shall present to the trustees his annual report on the finances of the institution; both of which reports shall be made up to the thirtieth day of September inclusive. The trustees shall audit the report of the treasurer, and transmit it with their annual report to the governor and council. Visitations of hospitals, annual meeting, reports. R. S. 48, § 5. 1852, 269, § 1. 1856, 247, § 2. 1857, 40. 1858, 12. 1859, 177, § 2.

SECT. 7. The accounts and books of the treasurer shall at all times be open to the inspection of the trustees. Treasurer's books. 1852, 269, § 2.

[General Statutes, chap. 5.]

SECT. 11. The trustees of each state lunatic hospital, shall annually on the thirtieth day of September, cause to be made an accurate inventory of the stock and supplies on hand, and the value and amount thereof, at such institution, under the following heads: Trustees to make inventories, &c. G. S. 71, § 54. G. S. 73, § 6. G. S. 75, § 25.

Live stock on the farm; produce of the farm on hand; carriages and agricultural implements; machinery and mechanical fixtures; beds and bedding in the inmates'

G. S. 76, § 7. 1863, c. 240. 1864, c. 307.

department; other furniture in the inmates' department; personal property of the state in the superintendent's department; ready-made clothing; dry goods; provisions and groceries; drugs and medicines; fuel; library.

[General Statutes, chap. 73.]

Remedy of towns for expenses of lunatics committed to hospitals. R. S. 48, § 10. 1841, 77. 18 Pick., 379 9 Cush., 585. 11 Gray, 107. 6 Allen, 586.

SECT. 25. Every city and town paying expenses for the support or removal of a lunatic committed to either hospital, shall have like rights and remedies to recover the full amount thereof, with interest and cost, of the place of his settlement, as if such expenses had been incurred in the ordinary support of the lunatic; and the lunatic, if of sufficient ability to pay the same, and any kindred obligated by law to maintain him, shall be liable for all such expenses paid by any city or town in either case.

[Statutes 1862, chap. 223.]

Expenses of supporting inmates of state hospitals, who have settlements in this state, how collected, &c. 12 Allen, 510.

SECT. 10. The expenses of the state lunatic hospitals for the support of lunatics having known settlements in this state, shall be paid quarterly, either by the persons obligated to pay, or by the place in which such lunatics had their residence, at the time of their commitment, unless other sufficient security is taken to the satisfaction of the trustees, for such support. If any place or person refuses to pay whatever sum may be charged and due according to the by-laws of the hospital, on account of the support of such patient therein, or for the removal of any patient whom the trustees are authorized by law to remove, for thirty days after the same has been demanded by the treasurer in writing, of the mayor and aldermen of the city or of the selectmen of the town, or of the person liable therefor, the same, with interest from the time of such demand, may be recovered for the use of the hospital, in an action to be instituted by the district attorneys, or other prosecuting officers, in the name of the treasurer, against such delinquent city, town, or person.

[Statutes 1864, chap. 288.]

Board to certify probable quarterly expense for support. 1862, c. 223. 1870, c. 105.

SECT. 12. It shall be the duty of the board of state charities to certify to the auditor, within one week from the commencement of each quarter of the financial year, the probable amount due to each lunatic hospital for the support of state pauper inmates during said quarter. And upon application of any board of trustees of said hospitals the auditor may draw his warrant for a sum not exceeding ninety per cent. of the amount so certified, and the same shall be paid to the treasurer of the hospital making the application, to be used towards the payment of its current expenses incurred within the financial year.*

Ninety per cent to be paid in advance.

*Under this statute, which now applies to the Board of Health, Lunacy, and Charity, several of the lunatic hospitals formerly drew large sums from the State treasury in advance of the end of the quarter; but since the hospitals began to accumulate large surplus funds, this practice has been discontinued. These funds have accrued from the three ordinary sources of income which all the State hospitals have: first, the board paid by the State for its patients, which is drawn, at the rate of three dollars a week for each patient, from a general appro-

[Statutes 1862, chap. 223.]

SECT. 2. The lands now holden, and which may hereafter be holden, by the trustees of any state lunatic hospital, in trust for the Commonwealth, for the use of the institution of which they are trustees, shall not be taken for any street, highway, or railroad, without leave of the legislature specially obtained.

State lunatic hospitals, lands of, not to be taken for streets, &c. G. S. 73.

SECT. 12. It shall be the official duty of the attorney-general and district attorneys to advise and consult with the trustees and treasurers of the several state lunatic hospitals, when requested by them, on all questions of law relating to their official business.

Attorney-general and district attorneys to advise with trustees. G. S. 14, §§ 22, 31.

[Statutes 1864, chap. 288.]

SECT. 8. The governor and council may license any suitable person to establish and keep an asylum or private house for the reception and treatment of insane persons, and may at any time revoke such license. And such asylum or private house shall be subject to visitation by the governor and council, or any committee thereof, and by the judge of the probate court of the county wherein the same is situated.

Private asylums for insane persons to be licensed, &c.;

SECT. 9. Whoever establishes or keeps such an asylum or private house without a license, unless otherwise authorized by law, shall forfeit a sum not exceeding five hundred dollars.

penalty for keeping without license.

COUNTY RECEPTACLES FOR INSANE PERSONS.

[General Statutes, chap. 74.]

SECTION 1. There shall be in each county within the precincts of the house of correction, or if in the judgment of the county commissioners it cannot be conveniently provided within the same, then in some other building or buildings to be deemed a part of the house of correction, a convenient apartment or receptacle for the confinement of insane persons not furiously mad.

County receptacles for insane persons, &c., to be provided, &c. 1836, 223, § 1. 1842, 100, §§ 1, 2. 5 Met., 54.

SECT. 2. The county commissioners of the county of Essex shall appoint a superintendent and matron for the receptacle in that county, and all persons confined therein shall be under the care and custody of said superintendent; who shall keep a record of all commitments and discharges, and receive a reasonable compensation for his services. Said county shall have the same remedies for the expenses of the care and support of such persons, as are provided for keepers and masters of houses of correction for the maintenance of prisoners committed to houses of correction.

Special provisions for the county of Essex. R. S. 143, § 16. 1846, 154, § 2.

priation accessible to all the hospitals, and now amounting to one hundred and ten thousand dollars a year; second, the board paid by cities and towns for their patients; and, third, the higher rate of board paid by private patients. Other sources of income are special appropriations for maintenance (for 1879 twenty thousand dollars at Danvers), the interest on funds, and deficiency or other special appropriations.

Persons removed from state hospitals to jails, &c., where to be confined. 1846, 154, § 3.

SECT. 3. All insane persons removed from either state lunatic hospital by order of the trustees thereof, pursuant to any provisions of law which require persons so removed to be confined in the jails or houses of correction of any county, shall be confined in said receptacles when established.

Support of persons confined. R. S. 14, §§ 29, 30. 1836, 223, § 2. 5 Met., 54.

SECT. 6. Provision shall be made for the comfortable support of all persons confined in said receptacles, and they shall be governed or employed in such manner as the county commissioners may in the exercise of their discretion deem best. Such sum a week shall be allowed and paid for the support of persons so confined as the commissioners shall direct, and the same may be recovered of such person, or of any parent, kindred, master, guardian, city, or town, obligated by law to maintain him.

Insane persons confined in jails, &c., may be removed by order of governor. 1854, 95, §§ 1, 2.

SECT. 7. Any insane person confined by legal authority in a jail, house of correction, or such county receptacle, may be removed therefrom to either of the state lunatic hospitals, or to any other jail, house of correction, or other suitable place, by order of the governor, when it appears to him that such removal would be expedient and just; and the sheriff of the county in which such person is confined shall execute such order and convey the insane person to the place therein designated.

How insane persons not furiously mad may be discharged. 1836, 223, § 3.

SECT. 8. Any person confined by virtue of section four may be discharged, when in the opinion of any two justices of the peace, one of whom is of the quorum, or of a police court, such discharge would be for the benefit of such person, or when in their opinion such person would be comfortably supported by any parent, kindred, friend, master, or guardian, or by any place in which he has a legal settlement.

Persons committed by order of trustees of state hospitals, how discharged or removed. 1838, 73, § 3.

SECT. 9. Any insane person confined in a jail, house of correction, or county receptacle, by authority of a certificate of the trustees of either of the state lunatic hospitals, may be discharged by the county commissioners when the cause of confinement has ceased to exist. And the commissioners, when in their opinion such insane person can in such manner be more comfortably provided for without danger to the safety of the public, may provide for his custody and support in some other place than such receptacle, jail, or house of correction, or may deliver him to the custody and care of any place in which he has a legal settlement; such person still continuing subject to the order and direction of said commissioners. The expense shall be reimbursed in the same manner and recovered by the same remedies as are provided in section twenty-eight of chapter seventy-three: but in no case shall the sum charged for such support exceed two dollars and fifty cents a week.

Jailers, &c., not to con-

SECT. 10. The keeper of a jail, house of correction, or county receptacle shall not contract for supporting

within the county buildings any lunatic who is a town pauper, without first obtaining the approbation in writing of the commissioners; and for every offence against this provision such keeper shall forfeit a sum not less than one hundred dollars. tract for support of insane paupers, &c. R. S. 48, § 12.

SECT. 11. In cases arising under sections four and eight, all magistrates, officers, and witnesses shall receive the same fees as are allowed by law for like services in criminal proceedings, to be taxed, allowed, and paid, in like manner. Fees of magistrates, &c. 1836, 223, § 4.

THE BOSTON LUNATIC HOSPITAL.

[General Statutes, chap. 74.]

SECT. 12. Nothing contained in this chapter or in chapter seventy-three shall repeal any provisions of law specially relating to the Boston lunatic hospital, or the confinement, care, and support of insane persons therein. Boston lunatic hospital. 1839, 131. 1840, 79. 1851, 243. 1857, 281, 302. See 1867, 355, § 1.

[The act of 1879, chap. 195, repealed chap. 281 of the acts of 1857, authorizing the city of Boston to receive insane persons into the Boston Lunatic Hospital without commitment by a magistrate. Chap. 302 of the acts of 1857, putting the Boston Hospital on the same footing with the State Hospitals in respect to commitments, remains unrepealed; and the same seems to be true of the earlier statutes (131 of 1839, and 79 of 1840) which established the Boston Lunatic Hospital, in place of the County Receptacle for Suffolk County, established under chap. 223 of the Acts of 1836. This earlier act provided for "a suitable and convenient apartment or receptacle for idiots and lunatics or insane persons not furiously mad, within the precincts of the house of correction in each county of this Commonwealth." By a later act (chap. 100 of 1842) the county commissioners were authorized to provide such "an apartment or receptacle" at any place out of the precincts of the house of correction. Chap. 35 of 1857 gives to the Board of Directors for Public Institutions the same power of discharge from the Boston Hospital, as chap. 79 of 1840 gave to the mayor and aldermen.]

[Statutes 1839, chap. 131.]

SECTION 1. The city council of the city of Boston are hereby authorized to erect and maintain a hospital, for the reception of insane persons not furiously mad; and City council authorized to erect hospital.

provision shall be made for the comfortable support of all persons confined therein.

Provision for commitments by judge of municipal court.

SECT. 5. Whenever it shall be made to appear, on application in writing to the judge of the municipal court in the city of Boston, that any person is insane, not being furiously mad, the said judge is hereby authorized to order the confinement of such person in the said hospital: provided, that, upon the request of such person, the question of his sanity shall be tried by a jury in said court.

Support of inmates.

Such sum per week shall be allowed and paid, for the support of every such person confined as aforesaid, as the mayor and aldermen of the city of Boston shall direct; and if, in any case, there shall be no parent, kindred, master, guardian, town or city, obliged by law to maintain the person so confined, and if he have no means of supporting himself, the same sum shall be paid out of the treasury of the Commonwealth, for his support, as may be allowed for other lunatic or insane state paupers; and

Discharge thereof.

any person, committed as aforesaid by said judge, may at any time be discharged, when, in his opinion, such discharge would be for the benefit of the person so confined, or when, in his opinion, such person would be comfortably supported by any parent, kindred, friends, master or guardian, or by any town or city in which such person may have a legal settlement; and the said judge, jury, and other officers, and all witnesses, shall receive the same fees and compensation for services performed, and for attendance and travel, as are allowed by law for like services in criminal proceedings, to be taken, allowed and paid in the same manner.

What persons shall be confined in the hospital.

SECT. 6. All insane persons who are now confined in the house of correction or the house of industry in said city, or may hereafter be subject to confinement therein, and all lunatics, idiots, and other patients, who shall be removed from the state lunatic hospital, at Worcester, to the city of Boston, by the trustees thereof, by virtue of the fourteenth and fifteenth sections of the forty-eighth chapter of the Revised Statutes, shall hereafter be confined in the said Boston lunatic hospital.

Discharge of lunatics received from state hospital, &c.

SECT. 7. Any lunatic or insane person, who may be confined in said hospital, upon his removal from the state lunatic hospital, as provided in the preceding section, may be discharged therefrom by the mayor and aldermen of said city, whenever the cause of confinement shall have ceased to exist; and said mayor and

1857, 35, gives power of discharge to board of directors for public institutions.

aldermen, whenever, in their opinion, such lunatic or insane person can in such manner be more comfortably provided for, and the safety of the public will not be endangered thereby, may provide for his custody and support in other places than in said hospital, the said lunatic or insane person still continuing subject to the order and direction of the said mayor and aldermen; or said mayor and aldermen may deliver him to the custody

and care of any city or town in which he may have a legal settlement. The expense of so providing for such lunatic or insane person shall be reimbursed in the same manner, and recovered by the same remedies as are provided in the sixteenth section of the forty-eighth chapter of the Revised Statutes.

[Statutes 1840, chap. 79.]

Insane persons may be sent to the hospital by order of police court, saving the right of appeal to municipal court, &c.

SECTION 1. Whenever it shall be made to appear, on application, in writing, to the police court of the city of Boston, that any person is insane, not being furiously mad, and is either chargeable or likely to become chargeable to the city or the state; or, being furiously mad, has his legal settlement in and is chargeable to said city, the said police court are hereby authorized to order the confinement of such person in the said Boston lunatic hospital, saving to the person complained against the right to appeal from such order to the municipal court of the city of Boston, as is now allowed from other judgments of said police court, by law. And, upon his appeal, the question of his sanity shall, upon his request therefor, be tried by a jury in said court. If, on such appeal, it shall be made to appear that such person is insane as aforesaid, and is, or is likely to be, chargeable as aforesaid, the said municipal court shall affirm the judgment of the said police court, with additional costs, and issue a warrant for his commitment according to law; otherwise such person shall be discharged.

Persons applying for commitment of lunatics to give notice to mayor.

SECT. 2. Any person who shall apply for the commitment of any lunatic, under the provisions of the preceding section, shall first give notice in writing to the mayor of the city of Boston, of his intention to make such application; and satisfactory evidence that such notice has been given shall be produced to the said police court, at the time of making such application. And the said police court may order any further notice of such application to be given to the person complained of, or to any other person or persons in his behalf, as they shall deem to be necessary or reasonable.

Provisions concerning discharging persons confined in the hospital.

SECT. 3. Any person committed to said hospital by either of the courts as aforesaid, and any person who may be confined in said hospital, upon his removal from the state lunatic hospital, as provided in the sixth section of the act, to which this is in addition, may at any time be discharged therefrom by the mayor and aldermen of the said city of Boston, whenever the cause of confinement shall have ceased to exist, or when, in the opinion of the said mayor and aldermen, such discharge would be for the benefit of the person so confined, or when in their opinion such person would be comfortably supported by any parent, kindred, friends, master or

guardian, or by any town or city in which such person may have a legal settlement. And said mayor and aldermen, whenever in their opinion such lunatic or insane person can in such manner be more comfortably provided for, and the safety of the public will not be endangered thereby, may provide for his custody and support in other places than in said hospital, the said lunatic or insane person still continuing subject to the order and direction of the said mayor and aldermen; or, said mayor and aldermen may deliver him to the custody and care of any city or town in which he may have a legal settlement. The expense of so providing for such lunatic or insane person shall be reimbursed in the same manner and recovered by the same remedies as are provided in the sixteenth section of the forty-eighth chapter of the Revised Statutes.

Repeal of part of an act of April 8, 1839.

SECT. 4. So much of the one hundred and thirty-first chapter of the statutes of the year one thousand eight hundred and thirty-nine, as relates to the commitment of persons to the said Boston lunatic hospital, by the judge of the municipal court of the city of Boston, and to their discharge therefrom by him, is hereby repealed; but all orders of the said judge relating thereto, and rendered prior to the time this act shall take effect, shall remain in full force.

[Acts of 1857, chap. 35.]

1840, 79.

SECT. 2. The said board of directors shall also have the same powers, as to the discharge of insane persons from confinement, as are now vested in the mayor and aldermen of said city.

[Statutes 1864, chap. 288.]

AN ACT RELATING TO INSANE PERSONS AND LUNATIC HOSPITALS.

Receptacle for insane criminals to be provided at Tewksbury almshouse. G. S. 71, §§ 32–57.

SECT. 10. There shall be established on the lands connected with the state almshouse at Tewksbury a receptacle for insane criminals, to which shall be removed all persons now in the state lunatic hospitals, whom the board of state charities shall deem to be fit subjects therefor. Any insane person who may be committed to one of the state lunatic hospitals under the provisions of the fourteenth section of the one hundred and seventy-second chapter of the General Statutes, or of the seventeenth section of the two hundred and twenty-third chapter of the acts of the year eighteen hundred and sixty-two, may, at the discretion of the court, be committed to the said receptacle under such limitations as the court may direct. And the judges of the superior and probate courts may cause convicts who are insane to be removed from any prison or house of correction to the said receptacle, in the same manner that such convicts may now be removed to one of the state lunatic hospitals. But no person shall

Who may be committed there, or removed there. G. S. 172, § 14. G. S. 180, §§ 4, 5. 1862, 223, § 17.

be removed or committed to such receptacle until the governor, by his proclamation, gives notice that the same is ready for inmates.

Rules and regulations therefor to be established, &c.

SECT. 11. The inspectors of the state almshouse at Tewksbury shall, subject to the approval of the governor, establish rules and regulations for the government and management of said receptacle, and shall see that the same are enforced; and said receptacle shall be visited and examined once in each week by at least one inspector, who shall at the time of such visit make a record thereof in a book to be kept at the receptacle for the purpose. The superintendent of the said almshouse shall have the general supervision of said receptacle, and shall furnish all supplies needed therefor. The inmates of said receptacle shall be under the care of a suitable resident physician who shall also be the physician of the almshouse, and who shall be appointed by the inspectors of said almshouse.

Care of inmates, &c.

[Statutes 1874, chap. 370.]

Insane criminals at new state prison.

SECTION 1. The commissioners having in charge the construction of the state prison at Concord shall make provision therein for insane criminals.

Homicidal insane in Worcester and Danvers asylums.

SECT. 2. The commissioners having in charge the construction of the lunatic asylums at Worcester and Danvers shall make provision therein for the safe custody and treatment of the homicidal insane not included in the first section of this act.

C. VISITATION OF INSANE PERSONS.

[Statutes 1879, chap. 291.]

Board to have supervision of charitable and reformatory institutions.

SECT. 4. Said board [of Health, Lunacy and Charity] shall have general supervision over all the state, charitable and reformatory institutions mentioned herein, including the state lunatic hospitals. . . . And said board may, when directed by the governor, assume and exercise the powers of the boards of trustees of said institutions, in any matter relating to the management thereof, excepting the trusts herein mentioned.

To act as commissioners of lunacy.

SECT. 5. Said board shall act as commissioners of lunacy, with power to investigate the question of the insanity and condition of any person committed to any lunatic hospital or asylum, public or private, or restrained of his liberty by reason of alleged insanity, at any place within this Commonwealth; and shall discharge any person, so committed or restrained, if in their opinion such person is not insane, or can be cared for after such discharge, without danger to others, and with benefit to such person. And the members of said board, in person or by agents, shall visit and inspect every private asylum or receptacle for the insane within the Commonwealth, at least once in every six months.

G. S. 70, 71. 72, 73, 75, 76. 1860, c. 83. 1862, c. 189, 2; 3. 1863, c. 184. 1864, c. 288, 290. 1865, c. 162. 1866, c. 198, 209, 234, 235. 1867, c. 209,

[Statutes 1863, chap. 240.]

The board of state charities shall investigate and supervise the whole system of the public charitable and correctional institutions of the Commonwealth, and shall recommend such changes and additional provisions as they may deem necessary for their economical and efficient administration.

243. 1869, c. 12, 258, 453, 463. 1870, c. 92, 136, 359. 1871, c. 321, 324, 365, 370. 1872, c. 45, 68, 189, 349. 1873, c. 166, 262. 1874, c. 121, 170, 264, 353, 385.

[Statutes 1879, chap. 195.]

Counsel for insane person may visit client.

SECT. 4. Any counsellor at law, regularly retained as counsel by or on behalf of any person committed to any lunatic hospital or asylum, or other receptacle for the insane, shall be admitted to visit such client at all reasonable times, if in the opinion of the superintending officer of such hospital, asylum or receptacle, such visit would not be injurious to such person, or if any judge of the supreme judicial, superior or probate court in any county shall first in writing order that such visits be allowed.

PRIVILEGES OF LUNATICS AND THEIR GUARDIANS.

[Statutes 1874, chap. 363.]

Inmates of lunatic asylums may write to certain persons. G. S. 73, 74.

SECTION 1. All persons confined as patients in the several lunatic asylums in this state shall be allowed to write monthly to the superintendent of the asylum in which they are confined, also to the board of state charities, and to the commissioners of lunacy, after their appointment.

Duty of superintendents.

SECT. 2. All patients in such asylums shall be furnished by the several superintendents with all materials necessary for such correspondence. And a locked box shall be placed in each ward, in which each writer may deposit his or her communication, said boxes to be opened and letters to be distributed monthly by some member of the board of state charities.

Boxes for correspondence.

[Statutes 1871, chap. 97.]

AN ACT TO CONFER CERTAIN RIGHTS UPON GUARDIANS OF INSANE PERSONS AND MINORS.

Guardians may exercise right of election or waiver for wards. G. S. 96, § 5. G. S. 109. 1861, 164. 102 Mass., 568.

When property rights or benefits given by will duly proved and allowed or by any provision of law, depend upon the election, waiver or other act of a person incompetent by reason of insanity or minority to exercise or perform the same, the guardian of such person may make the election or waiver or perform such act. [*March 11, 1871.*

D. The Discharge and Transfer of Lunatics.

[Provision has been abundantly made for the discharge of insane persons from restraint in hospitals and asylums, first by the trustees, then by the committing magistrates, and then by other magistrates and public officials. The general law in regard to discharges by the judges of courts is set forth in chapter three hundred and twenty-one of the Acts of 1871, and certain amendments thereof, as follows:]

[Statutes 1871, chap. 321. Amended by chap. 132, 1879.]

Person confined in state lunatic hospital may be discharged by trustees or court. G. S. 73.

Section 1. Any two of the trustees of either of the state lunatic hospitals, on application in writing, or of their own motion, or any judge of the supreme judicial court at any time and in any county, or the judge of the probate court for the county in which the hospital is located or of the county in which the patient had his residence at the time of his commitment or admission, on such application, after such notice, as the said trustees or judge may deem reasonable and proper, may discharge any person confined therein if it appears that such person is not insane, or, if insane, will be sufficiently provided for by himself, his guardian, his relatives, his friends, or the city or town liable for his support, or that his confinement therein is not longer necessary for the safety of the public nor his own welfare.

Proceedings.

Persons not dangerous, and those incapable of improvement, may be removed to town of residence, if, &c. G. S. 73.

Sect. 2. Any two of the trustees may also remove any person confined therein to the city or town in which the judge or court committing him certified that he resided at the time of the confinement, or to the place of his known lawful settlement, when in their opinion he ceases to be dangerous and is not susceptible of mental improvement at the hospital, if such city or town does not remove him after reasonable notice in writing.

Application to supreme judicial court when person is improperly confined as an insane person.

Sect. 3. Any person may, in writing, make application to a judge of the supreme judicial court at any time and in any county, setting forth that he believes or has reason to believe that a person therein named is confined as an insane person in a lunatic hospital or other place, whether public or private, and ought not longer to be so confined, stating also the names of all persons supposed to be interested in keeping him in confinement, and requesting his discharge.

Notice to be given to superintendent, &c.

Sect. 4. The judge shall, upon reasonable cause being shown for a hearing, order notice of the time and place of hearing on said application to be given to the superintendent in charge of the hospital, or place of confinement, and to such other persons as he deems proper, and such hearing when ordered shall be had as speedily as conveniently may be before the same or any other judge of the supreme judicial court in any county. The alleged

Hearing, when and where to be had.

insane person may be brought before the judge, at the hearing, upon a writ of *habeas corpus*, if any party so requests and the judge deems it proper, and an issue or issues may be framed and submitted to a jury by direction of the judge or on the request of any person who appears in the case. The jurors may be those in attendance on said court, if in session at the time of the hearing, or may be summoned for the special purpose on venires issued by the clerk of said court upon the order of the judge substantially in accordance with the provisions of chapter one hundred and thirty-two of the General Statutes.

Issues may be framed and submitted to jury.

If not insane, to be discharged. 1879, 132.

SECT. 5. If it appears upon the verdict of the jury, or in the opinion of the judge, if not submitted to a jury, that the person so confined is not insane, or that he is not dangerous to himself or others and ought not longer to be so confined, he shall be discharged from such confinement.

Agent of board of state charities to investigate cases, upon complaints of persons confined in hospital, &c.

SECT. 6. Upon complaint of any person confined in any lunatic hospital or other place for the treatment or custody of insane persons, public or private, or of any other person in his behalf, to the general agent of the board of state charities that such person ought not longer to be so confined, the agent shall have power to investigate the case, make report thereof to said board, and if they so direct, shall make application for the discharge of the person so confined to a judge of the supreme judicial court, as provided in section three of this act; and the proceedings upon such application shall be as ordered in sections four and five of this act. And any district attorney, upon request of the agent, shall aid him and conduct the proceedings in his behalf.

District attorneys to aid.

[The following statute is still in force, though it is not often acted upon:]

[Statutes 1862, chap. 223.]

Removal of inmates when hospitals are too full. G. S. 71, § 7. 1863, c. 240.

SECT. 13. If at any time all the state lunatic hospitals shall be so full that the inmates cannot all be suitably accommodated therein, and in the opinion of the trustees of either hospital it is proper that some should be removed, the trustees may remove to their respective homes, or to the places of their legal settlement, or of their residence, so many as may be necessary to afford suitable accommodations for the remainder; but only such patients shall be selected for removal as, in the opinion of the trustees and superintendent, are not susceptible of improvement, and can be suitably managed at their homes or in the places to which they may be sent.

[In certain cases the governor and council may discharge as follows:]

[Statutes 1873, chap. 227.]

Insane murderers to be committed

SECTION 1. When a person indicted for murder or manslaughter is acquitted by the jury by reason of insan-

ity, the court shall order such person to be committed to one of the state lunatic hospitals during his natural life.

to lunatic asylum for life; G. S. 172, § 14. 1862, 223, § 17.

SECT. 2. Any person committed to a state lunatic hospital under the provisions of this act, may be discharged therefrom by the governor, by and with the advice and consent of the council, whenever he shall be satisfied, after a hearing of the matter, that such person may be discharged without danger to others.

may be discharged by governor.

[General Statutes, chap. 73.]

Removal from one hospital to another. 1856, 247, § 5. See 1863, 240, § 4.

SECT. 26. The governor may at any time cause to be removed from one of said hospitals to either of the others, such of the inmates thereof as circumstances or the necessities of the case may in his judgment require.

[By the special Acts concerning the Boston Lunatic Hospital, cited on pages 91–92, the city authorities of Boston may discharge patients from that hospital. This legislation dates back to 1840. Sections 30 and 31 of General Statutes, chap. 73, given below, were first enacted in 1839, and are still in force, though seldom or never acted upon.]

Removal of incurable lunatics.

SECT. 30. Any justice of the supreme judicial court or superior court, at any term held within and for the county in which either hospital is located, or the judge of the probate court of such county, may on application in writing for the discharge from such hospital of any lunatic who has remained there a sufficient time to make it appear that he is incurable, cause him to be delivered to the agents of any place in which he has his legal settlement, or to his friends when it appears that it would not be to his injury, and that he would be comfortably and safely provided for by any parent, kindred, friend, master, or guardian, or by the place of his legal settlement. When request for the purpose is made in writing by any person interested in such discharge, the judge before whom the trial is to be held shall issue a warrant to the sheriff of the county or his deputy, directing him to summon a jury of six lawful men to hear and determine the question whether such lunatic is incurable, and may be comfortable and safely provided for according to the terms of this section; the proceedings shall be the same in selecting the jurors, conducting the trial, and allowing the costs, as are provided in sections twelve, thirteen, fourteen, fifteen, and sixteen.

A jury may be had on request, &c. 1839, 149, § 1.

After removal, if not comfortably supported, &c., may be recommitted. 1839, 149, § 2.

SECT. 31. If after the discharge of an incurable lunatic under the preceding section, it is made to appear on complaint by any person under oath to the judge of the probate court for the county in which the lunatic has his legal settlement or is placed, that he is not comfortably supported, or that the public safety is endangered by him, said judge shall order his recommitment to said hospital. And the same proceedings may be had in determining these

questions by a jury, upon the request of any person interested therein made in writing to said judge, as are provided in the preceding section.

Trustees may furnish clothing, &c. R. S. 48, § 13.

SECT. 32. No pauper shall be discharged from either hospital without suitable clothing; and the trustees may furnish the same at their discretion, together with such sum of money, not exceeding twenty dollars, as they may deem necessary.

[Statutes 1863, chap. 240.]

The board of state charities shall have full power to transfer pauper inmates from one charitable institution to another, and for this purpose to grant admittances and discharges.

[General Statutes, chap. 71.]

May transfer inmates of state almshouses, &c.

SECT. 7. The inmates of a state almshouse or state lunatic hospital . . . may be transferred from one institution to another, or sent to any state or place where they belong, by the board or their order, when the public interest or the necessities of the inmates require such transfer.

E. Idiots and the Idiot School.

[The law of 1836 above cited (chap. 223) provided for the restraint of idiots as well as of lunatics, but in a prison. It was not until 1846 that Massachusetts began to take thought by legislation for the more comfortable treatment of idiots, with a view, also, to their instruction. In 1848 the Idiot School was opened in a small way, and under the patronage of the state. In 1850 the school was incorporated; and in 1851 provision was made for the admission of state pupils and for state inspection. The appropriations have since been increased, and the law somewhat amended; but its general provisions are as given below:]

Resolved, That his excellency the governor, by and with the advice and consent of the council, be authorized to appoint three persons to be commissioners to inquire into the condition of the idiots in the Commonwealth, to ascertain their number, and whether any thing can be done for their relief, and make report of their doings to the next general court. The actual expenses of said commissioners shall be paid, and nothing more, and the governor is hereby authorized to draw his warrant upon the state treasury therefor. [*Approved April 1, 1846.*

That there be paid out of the treasury of the Commonwealth, a sum, not exceeding twenty-five hundred dollars, annually, for the term of three years, for the purpose of training and teaching ten idiotic children, to be selected by the governor and council, from those at public charge, or from the families of indigent persons in different parts

of the Commonwealth: *provided*, that an arrangement can be made by the governor and council with any suitable institution now patronized by the Commonwealth, for charitable purposes; and *provided*, that said appropriations shall not be made a charge upon the school funds.

That the trustees of the institution, undertaking the instruction and training of said idiots, shall, at the end of each and every year, render to the governor and council an account of the actual expense incurred on account of said idiots, and if the amount expended shall be less than the sum received from the public treasury, the unexpended balance shall be deducted from the amount of the next annual appropriation.

That the said trustees shall be authorized to require that the authorities of any town which may send any idiot paupers to them, for instruction, be required to keep them supplied with comfortable and decent clothing. [*Approved by the Governor, May 8, 1848.*

[Statutes 1850, chap. 150.]

AN ACT TO INCORPORATE THE MASSACHUSETTS SCHOOL FOR IDIOTIC AND FEEBLE-MINDED YOUTH.

SECTION 1. S. G. Howe, Samuel May, Stephen Fairbanks, their associates and successors, are hereby made a corporation, by the name of the Massachusetts School for Idiotic and Feeble-Minded Youth, for the purpose of training and teaching such persons, with all the powers and privileges, and subject to all the duties, restrictions, and liabilities, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes.

SECT. 2. Said corporation may hold, for the purposes aforesaid, real estate not exceeding in value one hundred thousand dollars, and personal estate, the income of which shall not exceed ten thousand dollars. [*Approved by the Governor, April 4, 1850.*

[Resolves 1851, chap. 44.]

RESOLVES CONCERNING IDIOTIC CHILDREN.

Resolved, That there be paid, annually, out of the treasury of the Commonwealth, to the treasurer of the Massachusetts School for Idiotic and Feeble-Minded Youth, the sum of five thousand dollars, to be devoted to teaching and training indigent idiotic children belonging to this Commonwealth: *provided*, that the board of trustees, having the direction of said institution, shall be composed of twelve persons, four of whom shall be appointed by the governor and council: and *provided*, that the governor, lieutenant-governor, secretary of state, president of the senate, speaker of the house, and the two chaplains, shall constitute a board of visitors, whose duty it shall be to visit and inspect said institution as often as they see

fit; to examine the by-laws and regulations enacted by the corporation; and, generally, to see that the object of said institution is carried into effect: and *provided*, *further*, that said institution shall gratuitously receive and educate thirty idiotic persons, to be designated by the governor: and *provided*, *further*, that other applicants, of proper age and condition, children of inhabitants of this Commonwealth who are not wealthy, shall be received at a charge not exceeding the actual average cost of the inmates: and *provided*, *further*, that the members of the legislature for the time being shall be *ex officio* visitors of the institution, and have the privilege, during the sessions, of inspecting the same; and that the governor be authorized annually to draw his warrant for the sum of five thousand dollars, in four equal quarterly payments of one thousand two hundred and fifty dollars each, in favor of the treasurer of the said school, whenever he shall have satisfactory evidence that the terms and conditions of the foregoing resolve have been fulfilled. [*Approved by the Governor, April 30, 1851.*

[In 1856 further legislation concerning idiots was placed on the statute-book as follows:]

[General Statutes, chap. 71.]

Idiots having no known settlement may be sent to state almshouse. 1856, 108, § 3.

Sect. 38. When it is made to appear on application in writing to any two justices of the peace, one of whom shall be of the quorum, or to a police court, that any person having no known settlement in this state is idiotic and ought to be confined, said justices or court shall send such person to the nearest state almshouse, there to be supported, governed, and employed, in the same manner as persons sent thereto by overseers of the poor.

Fees allowed to officers, &c., in such cases. 1856, 108, § 6.

Sect. 39. In any case arising under the preceding section, all magistrates, officers, and witnesses, shall receive the same fees and compensation for services performed, and for travel and attendance, as are allowed by law for like services in criminal proceedings, to be taxed, allowed, and paid, in the same manner.

IV. — The Laws relating to Public Charity.

[These statutes should be read in connection with the Organic Act constituting the Board of Health, Lunacy, and Charity (Statutes 1879, chap. 291), which is printed at the beginning of this compilation. For convenient reference, sections two, three, four, and seven of this Act are given below. The statutes concerning public charity are printed in four divisions: A, relating to the In-door Poor and the Settlement Laws; B, to the Visitation of Children; C, to the Out-door Poor; and D, to Statistical Returns.]

[Statutes 1879, chap. 291.]

State board of health, lunacy, and charity established. Terms of office.

SECT. 2. The governor, with the advice and consent of the council, shall appoint nine persons, who shall constitute a state board of health, lunacy and charity. They shall hold their offices for five years: *provided*, that the terms of office of the nine first appointed shall be so arranged that the term of one shall expire in five years, and the terms of two in four, three, two years, and one year respectively; and the vacancies so created, as well as all vacancies occurring otherwise, shall be filled by appointment or re-appointment by the governor and council.

Powers and duties.

SECT. 3. The board shall have all the powers and duties and may exercise all the functions of the boards abolished by section one hereof, and of all their bureaus and agents, including the agency thereby abolished, except as hereinafter provided; and said board may assign any of its powers and duties to agents appointed for the purpose, and may execute any of its functions by such agents, or by committees appointed from and by said board.

Board to have supervision of charitable and reformatory institutions.

SECT. 4. Said board shall have general supervision over all the state charitable and reformatory institutions mentioned herein, including the State Lunatic Hospitals, the State Almshouse, the State Workhouse, the State Primary School, the State Reform School, and the State Industrial School for Girls. And said board may, when directed by the governor, assume and exercise the powers of the boards of trustees of said institutions, in any matter relating to the management thereof, excepting the trusts herein mentioned.

To appoint officers, and fix their compensation;

SECT. 7. Said board, with the consent of the governor, shall appoint such officers as are necessary, and fix their compensation within the limits of the annual appropriation. Said board shall be provided with rooms at the State House, and shall hold meetings each month on a day fixed by said board, and at such other times as may be needful. The board shall make its own by-laws, and shall make a report of its doings to the governor and council on or before the thirty-first day of December in each year, such report being made up to the thirtieth day of September inclusive. It shall embody in its report a properly classified and tabulated statement of the receipts and expenses of said board and of each of the several institutions named in this act for the said year, and a corresponding classified and tabulated statement of their estimates for the year ensuing, with its opinion as to the necessity or expediency of appropriations in accordance with said estimates; but this provision shall not apply to estimates for the ordinary expenses of lunatic hospitals. Said report shall also present a concise review of the work of the several institutions herein named for the year preceding, with such suggestions and recommendations as to said institutions and the charitable, reforma-

to hold monthly meetings.

Annual report.

To serve without compensation.

tory, and health interests of the state, as may be deemed expedient. The members of said board, and the members of the boards of trustees of the state institutions herein named shall receive no compensation for their services, but their travelling and other necessary expenses shall be allowed and paid; and no person employed by the board shall be a member thereof.

A. The In-Door Poor. — The Settlement Laws.

[General Statutes, chap. 71.]

May transfer inmates of state almshouses, &c. 1859, 255. 102 Mass., 215. See 1860, 83. 1863, 240, § 4.

Sect. 7. The inmates of a state almshouse, or state lunatic hospital, . . . may be transferred from one institution to another, or sent to any state or place where they belong, by the board or their order, when the public interest or the necessities of the inmates require such transfer; but no patient shall be transferred or discharged from a state lunatic hospital without the concurrence of the trustees thereof.

[Statutes 1863, chap. 240.]

Sect. 4. They (the board of state charities) shall have full power to transfer pauper inmates from one charitable institution or lunatic hospital to another, and for this purpose to grant admittances and discharges to such pauper inmates.

Offices of commissioners and superintendent of alien passengers abolished. G.S., 71, §§ 1–25. 1866, 272. 102 Mass., 216.

Sect. 6. The board of commissioners in relation to alien passengers and state paupers, and the office of superintendent of alien passengers in the city of Boston are hereby abolished, and the duties now required by law to be performed by the incumbents of said offices shall be performed by the secretary and general agent herein provided for, subject to the control and direction of the board of state charities.

Towns to support poor. G. S. 69. 1868, c. 328. 1870, c. 382. 1871, c. 379. 1874, c. 274.

[General Statutes, chap. 70.]

Section 1. Every city and town shall relieve and support all poor and indigent persons lawfully settled therein, whenever they stand in need thereof.

Powers and duties of overseers of the poor. 1863, c. 240. 1865, c. 162. 1867, c. 209. 1871, c. 370.

Sect. 2. The overseers of the poor shall have the care and oversight of all such poor and indigent persons so long as they remain at the charge of their respective cities or towns, and shall see that they are suitably relieved, supported and employed, either in the workhouse or almshouse, or in such other manner as the city or town directs, or otherwise at the discretion of said overseers. They may remove to the almshouse such children as are suffering destitution from extreme neglect of dissolute or intemperate parents or guardians.

Same subject.

SECT. 3. The overseers of the poor shall have the same power and authority over persons placed under their care which directors, or masters of workhouses, have over persons committed thereto.

Certain kindred to support, &c.

SECT. 4. The kindred of such poor persons, in the line or degree of father or grandfather, mother or grandmother, children or grandchildren, by consanguinity, living in this state and of sufficient ability, shall be bound to support such paupers in proportion to their respective ability.

Liability when pauper removed, &c. 1873, c. 213.

SECT. 14. When a person is supported in a place other than that in which he has his settlement, the place liable for his support shall not be required to pay therefor more than at the rate of one dollar a week: *provided*, that the place so liable shall cause the pauper to be removed within thirty days from the time of receiving legal notice that such support has been furnished.

Overseers shall support, and in case of decease, bury, indigent strangers. Compensation therefor. 1867, c. 97.

SECT. 15. The overseers of the poor of each place shall also relieve, support and employ all poor persons residing or found therein, having no lawful settlements within this state until their removal to a state almshouse; and in case of their decease shall decently bury them, the expense whereof may be recovered of their kindred, if they have any chargeable by law for their support, in the manner herein before provided; and if, in case of their burial, the expense thereof is not paid by such kindred, there shall be paid from the treasury of the Commonwealth five dollars for the funeral expenses of each pauper over twelve years of age, and two dollars and fifty cents for the funeral expenses of each pauper under that age.

Towns liable to individuals.

SECT. 16. Every city and town shall be held to pay any expense necessarily incurred for the relief of a pauper therein, by any person who is not liable by law for his support, after notice and request made to the overseers thereof, and until provision is made by them.

Overseers of poor may sell estate of deceased paupers, and apply proceeds to reimburse expenses.

SECT. 21. Upon the death of a pauper who, at the time of his decease, is actually chargeable to any place within this state, the overseers of the poor of such place may take possession of all his real and personal property; and if administration is not taken upon his estate within thirty days after his decease, the overseers may, in their own names, sell and convey so much thereof as may be necessary to repay the expenses incurred for the pauper. If any part of such property is withheld from said overseers they may, in their own names, sue for and recover possession of the real estate, and shall have the same remedy for the recovery of the personal estate, or its value, that an administrator might have in like case.

[Statutes 1873, chap. 213.]

Towns liable to pay two dollars a week for support of paupers by other towns. G. S. 70, § 14.

Section fourteen of chap. 70 of the General Statutes is amended by striking out the words "one dollar," and inserting instead thereof the words "two dollars."

[Statutes 1867, chap. 97.]

Allowance by state for burial of state paupers. G. S. 70, § 15.

Section fifteen of chap. 70 of the General Statutes is hereby amended, so that ten dollars for the funeral expenses of each pauper over twelve years of age, and five dollars for the funeral expenses of each pauper under that age, shall be paid from the treasury of the Commonwealth.

STATE ALMSHOUSES.

[General Statutes, chap. 71.]

Inspectors of state almshouses, appointment, duty, &c. 1860, c. 83. 1863, c. 240. 1864, c. 288. 1865, c. 162. 1866, c. 198, 209. 1869, c. 463. 1870, c. 288. 1872, c. 45, 282. 1862, c. 212. Repealed 1879, c. 291.

[Sect. 32. The governor, with the advice and consent of the council, shall appoint for each of the state almshouses a board of three inspectors residing in the immediate vicinity thereof, subject to removal only for sufficient cause, and one member at least of each board shall be appointed annually. The inspectors shall, subject to the approval of the governor, establish rules and regulations for the proper management and government of said almshouses, and shall see that such rules and regulations are enforced; and each almshouse shall be visited by one inspector at least once in each week. They shall receive an annual salary of one hundred dollars each, together with their necessary travelling expenses.]

Inspectors to have certain powers of overseers of poor, &c.

Sect. 33. The inspectors shall have the same power to bind as apprentices, minors who are inmates of the institution under their charge, to cause the inmates of said institution to be returned to the place or country from which they came, and to remove insane persons to the state lunatic hospital, as is vested in overseers of the poor.

Superintendent. Salary, bond, &c. 1866, c. 198. 1866, c. 209. 1872, c. 45, 282. First clause repealed by 1879, c. 291.

Sect. 34. [The governor, with the advice and consent of the council, shall appoint a superintendent of each of said institutions], whose salary, subject to the approval of the governor, shall be fixed by the inspectors thereof, and who shall receive no other compensation or perquisite for his services, except the right to reside with his family in the building under his care. He shall give bond to the treasurer of the Commonwealth for the faithful performance of his duties, in such sum as shall be designated by the rules and regulations of the inspectors and with sufficient surety or sureties to the acceptance of said inspectors, and subject to the approval of the governor.

To receive paupers, &c. 1860, c. 83.

Sect. 35. Said superintendents shall receive all paupers sent with a proper certificate from the mayor of any city or one of the overseers of the poor of any town, and provide for them under the rules and regulations herein provided.

Not to send lunatics who are dangerous.

Sect. 37. No city or town shall send to either almshouse any person who, by reason of insanity, would be dangerous if at large. And if an inmate of such establishment becomes so insane, the inspectors thereof may

apply to the judge of a police court, or any two justices of the peace and the quorum, in the county in which the institution is situated, who shall have the same power and authority in regard to such application and the commitment of such person to either of the state lunatic hospitals, as judges of probate courts have in regard to lunatics furiously mad: *provided*, that it shall not be necessary to give notice of such application to the officers of any place.

Inmates becoming furiously mad may be sent to state lunatic hospitals.

Sect. 38. When it is made to appear on application in writing to any two justices of the peace, one of whom shall be of the quorum, or to a police court, that any person having no known settlement in this state is idiotic and ought to be confined, said justices or court shall send such person to the nearest state almshouse, there to be supported, governed and employed in the same manner as persons sent thereto by overseers of the poor.

Idiots having no known settlement may be sent to state almshouse. 1856, 108, § 3.

Sect. 45. When either of the state almshouses is full of inmates, the superintendent thereof shall report the fact to the alien commissioners, who shall distribute the paupers who cannot be provided for therein, among the other state pauper establishments, in such manner as shall be most convenient.

When either almshouse is full, inmates to be distributed. 1872, c. 45.

Sect. 46. When by reason of all the state almshouses being full, a city or town is unable to obtain admission for a state pauper, such place shall take charge of the pauper until notified by the superintendent to whom application for admission has been made, that the pauper can be received.

When all are full, towns, &c., to take charge of state paupers at expense of state.

The superintendent shall give notice by mail when the pauper can be received, having regard in so doing to the priority of applications; and until notice is given, the city or town shall receive payment for the support of the pauper from the treasury of the Commonwealth.

Sect. 47. The inspectors of the several state almshouses shall have the same powers in relation to the paupers who are inmates of the same, and their property, as are vested in towns and the overseers of poor in reference to paupers supported or relieved by towns, to be exercised in the same manner.

Powers of inspectors as to inmates and property.

Sect. 48. The superintendent of each state almshouse, with the consent of the inspectors, may contract with any person for the employment of any inmate thereof in any kind of lawful labor, for such wages or on such terms as the superintendent and inspectors approve. When a contract is so made, such inmate shall be discharged from the institution, and if he refuses to avail himself of the employment offered, shall forfeit all claim to support as a state pauper.

Superintendents may contract for employment of inmates.

Sect. 49. If a pauper having a legal settlement in any place becomes an inmate of either of said almshouses, such place shall be liable to the Commonwealth for the expense incurred for him, in like manner as one town is liable to another in like cases; and the same measures

Towns liable for support of their paupers in state almshouses.

shall be adopted by the inspectors, in regard to notifying towns so liable, the removal of the pauper, and the recovery from towns of expenses incurred for him, as are prescribed for towns in like cases.

Liability of kindred for support of such paupers.

SECT. 50. The kindred who are liable by law to towns for expenses in supporting such paupers, shall in like manner be liable to the Commonwealth for any expense incurred for such paupers; and the inspectors may adopt the same measures and institute like legal proceedings for the recovery of such expenses of the kindred so liable, as are prescribed for towns in like cases.

Punishment for leaving almshouses without consent, and found begging.

SECT. 51. If an inmate of either of said almshouses, above the age of sixteen years, leaves the same without the consent of the inspectors thereof, and within one year thereafter is found within any city or town soliciting public or private charity, he shall be punished by confinement to hard labor in the house of correction for the county within which he is so found, for a term not exceeding three months.

Inspectors to audit superintendents' accounts, and make reports.

SECT. 54. The inspectors of the several state almshouses shall audit all the accounts of the superintendents of their respective institutions, and shall report to the governor and council on or before the fifteenth day of October annually, the state of the institution under their charge, and the expenses in detail of said institution for the year ending on the last day of the preceding month, with a list of the salaried officers and their salaries, and in a tabular form under the heads specified in section eleven of chapter five, the value of the stock and supplies.

Inventories. G. S. 5, § 11.

Accounts for maintenance of almshouses, how and when paid.

SECT. 55. All accounts for the maintenance of the state almshouses and the support of their inmates, shall, after they have been approved by the inspectors, be presented to the state auditor at the close of each month and paid from the treasury of the Commonwealth: *provided* that if the inspectors deem it necessary a warrant may be drawn by the governor on the treasurer of the Commonwealth in favor of the superintendent, for a sum not exceeding five hundred dollars, to enable him to make purchases during the month; said sum to be accounted for to the auditor prior to the advance of any further amount.

Allowance for state paupers.

SECT. 56. Nothing shall be allowed from the treasury of the Commonwealth to any county, city or town for expenses incurred on account of any state pauper, except in cases expressly provided by law.

Accounts of counties, &c., how audited. 1863, c. 240. 1869, c. 12. 1879, c. 291.

SECT. 57. All accounts against the Commonwealth for allowance to counties, cities and towns on account of state paupers, shall be rendered to the board of alien commissioners on or before the third Wednesday of January annually; and shall be so made as to include all claims for such charges up to the first day of said January; and if approved by said board, and certified by the auditor of accounts, shall be paid from the treasury

of the Commonwealth. The commissioners may require such accounts to be accompanied with such statement of particulars and facts, and substantiated by such affidavits, as may seem to them proper.

[Before the opening of state almshouses in 1852, state paupers were supported by the counties, cities or towns, wholly or in part reimbursed by the state. Since this support became a direct charge upon the state, the state auditors have held that the successors of the alien commission must approve all such bills before further action.]

[Statutes 1875, chap. 94.]

SECT. 1. Chapter seventy-one of the General Statutes is hereby amended in the forty-ninth and fiftieth sections, by adding after the word "inspectors," in each of said sections, the words "and the board of state charities through their general agent."

Agent of board of state charities to enforce liability of kindred, &c., to support state paupers. G. S. 71, §§ 49, 50.

[Statutes 1869, chap. 463.]

SECT. 4. Upon the application of the overseers of the poor of any town, to the board of state charities, said board shall make provision in the state almshouses or elsewhere for the support of any persons heretofore known as Indians who may be unable to support themselves, and who have not acquired a settlement in any town; and upon the application of any Indian who has heretofore received aid from the Commonwealth, the said board shall furnish to such person in the state almshouses or elsewhere, such aid as they may deem expedient.

Board of state charities to make provision for support of Indians.

TEWKSBURY ASYLUM, STATE WORKHOUSE, ETC.

[Resolves 1864, chap. 80.]

Resolved, That there be allowed and paid out of the treasury of the Commonwealth a sum not exceeding ten thousand dollars for the erection upon the lands of the state almshouse at Tewksbury, of a suitable building for the accommodation of one hundred harmless and incurable insane paupers.

Allowance of $10,000 for building for incurables.

[Resolves 1871, chap. 77.]

Resolved, That there be allowed and paid out of the treasury for the purpose of erecting, furnishing and heating an addition to the building now used at the state almshouse at Tewksbury for the reception of the harmless and incurable insane, of sufficient capacity to accommodate not less than one hundred and fifty inmates, a sum not exceeding twenty-five thousand dollars.

Allowance of $25,000 for addition to building at Tewksbury Almshouse for use of harmless and incurable insane persons.

[Statutes 1872, chap. 45.]

Bridgewater and Monson state almshouses to be used for state workhouse and primary school.
G. S. 71, §§ 32-57.
1863, c. 240.
1866, c. 198, 209.

SECTION 1. The state almshouses at Bridgewater and Monson are hereby discontinued, and the buildings now occupied by them shall be used respectively for the purposes of the state workhouse and the state primary school; and, as soon as practicable, the inmates of the said state almshouses shall be transferred to the state almshouse at Tewksbury, in the manner provided by section four of chapter two hundred and forty of the acts of the year eighteen hundred and sixty-three.

Towns may send state paupers to state almshouse at their own expense.
G.S. 71, § 36.
1863, 240.
1865, c. 162.

Reimbursement.

SECT. 2. The several cities and towns may, at their own expense send to the state almshouse at Tewksbury, to be maintained at the public charge, all paupers who may fall into distress therein, not having a settlement within the Commonwealth: *provided*, that whenever the distance between such city or town and the state almshouse, by the usual route, exceeds thirty miles, the city or town shall be reimbursed by the Commonwealth, upon bills approved by the general agent of state charities, for the expense of transportation in excess of thirty miles, at a rate not exceeding three cents a mile, by the usual route, for each state pauper thus sent.

Board of state charities may transfer state paupers.
G. S. 71, §§ 36-57.
1866, c. 198, 209.

SECT. 3. The board of state charities may, from time to time, select for support at the state workhouse and the state primary school, any state paupers whose labor, in domestic or other service at those institutions, may contribute to the cost of their support, or whose maintenance at the same may, for special reasons, be deemed expedient; and in case of an emergency, it may cause any inmates of the state almshouse at Tewksbury, to be transported to the said institutions, there to be supported while the emergency continues: *provided*, nothing herein contained shall be construed to authorize the board of state charities to transfer any inmate of the state almshouse to the state workhouse as a punishment for crime.

Inspectors and superintendents continued in office.
G. S. 71, §§ 32-33.
1866,198,209.

SECT. 4. The inspectors and superintendents of the state almshouses at Bridgewater and Monson are hereby continued in office, according to their present tenures, as inspectors and superintendents of the state workhouse and the state primary school respectively, and shall hereafter be designated as such respectively, and be appointed in the manner now provided for the appointment of the inspectors and superintendents of the state almshouses; and they shall have the same powers, and perform the same duties, and receive the same compensation, as are now provided in the case of the inspectors and superintendents of the state almshouses, except as are specially provided in the acts relating to the state workhouse and the state primary school.

Powers and duties.
1872, c. 282.

Repealed 1879, c. 291.

[Statutes 1866, chap. 198.]

State workhouse established. G. S. c. 71, §§ 32-57. 1872, c. 45.

SECTION 1. A state workhouse shall be established at Bridgewater. So much of the state almshouse there situate as in the judgment of the board of state charities is necessary shall be devoted to this purpose; such alterations may be made therein, and such additions be made thereto, as said board shall think advisable for the purpose of carrying into effect the provisions of this act.

Master and inspectors, and their duties. G. S. c. 71, §§ 32-35. 1872, c. 282. 1873, c. 143. 1874, c. 264.

SECT. 2. The superintendent of said almshouse shall be master of the workhouse, appointing his assistants and fixing their compensation, subject to the approval of the board of inspectors of said almshouse, who shall be *ex-officio* inspectors of the workhouse. The master shall make any and all rules for the government of said institution, to be approved by the governor and council, and shall have the management and control of said workhouse and its operations, and with the approval of said board of inspectors may make contracts for the labor of the inmates of said workhouse. The board of inspectors shall visit the workhouse once each month, and one of them shall visit the same each week; and said board shall annually, before the fifteenth of October, report the condition of said workhouse to the governor and council, and shall audit and approve all bills before payment of the same.

Annual report.

Board of state charities to have supervision, &c. G. S. c. 21, 22, 71, §§ 32, 57, 178, § 17. 1862, c. 189. 1863, c. 240.

SECT. 3. The board of state charities shall have a general supervision of the workhouse; they shall have the same power of discharging persons therein confined for any cause, that the overseers of houses of correction have in those institutions: there shall also be vested in said board of state charities all the powers not herein given to the master and board of inspectors, which overseers of the poor have in relation to town workhouses.

Expenses, receipts and accounts. G. S. 71, §§ 54, 57.

SECT. 4. The expenses of the workhouse shall be paid from the annual appropriation for the support of the state almshouse at Bridgewater: the receipts for the workhouse for labor shall be paid quarterly into the state treasury: separate accounts shall be kept of the expenses of the almshouse and workhouse departments.

Inmates of reformatories may be transferred therefrom. G. S. 75, 76. 1863, 240. See 1872, 68.

SECT. 6. On application of the trustees of the reform school for boys, . . . or of the industrial school for girls, the board of state charities may cause any inmate of either of said institutions, whom said trustees deem incorrigible or unfit subjects for said institutions, to be transferred with the mittimus to the state workhouse, the master of which is hereby authorized to hold such persons on said mittimus till the term of sentence expires.

[Statutes 1876, chap. 14.]

Inmates of reform and industrial schools

Chapter one hundred and ninety-eight of the acts of eighteen hundred and sixty-six, is hereby amended in the sixth section, by adding thereto the words, "*provided*, that

transferred to workhouse may be returned whenever, &c. G. S. 71, §§ 32-57. G. S. 75, 76. 1863, 240. 1866, 198, § 6. 1872, 68.

whenever in its judgment the object of such transfer has been accomplished, said board may return such person, with the mittimus, to the institution from which such transfer was made."

[Statutes 1869, chap. 258.]

Commitments may be made on complaint of overseers of poor. G. S. 71, 165. §§ 28-35. 1866, c. 198. 1870, c. 19, 288.

SECTION 1. Upon complaint of the overseers of the poor of any city or town, trial justices and justices of the police and municipal courts may, in their discretion, commit persons convicted before them of any of the offences enumerated in sections twenty-eight and thirty-five of chapter one hundred and sixty-five of the General Statutes,* to the state workhouse at Bridgewater, for a term not less than three months nor more than two years, there to be governed and subject to the same liabilities as persons sentenced under the provisions of chapter one hundred and ninety-eight of the acts of the year eighteen hundred and sixty-six; or such offenders may be sentenced as now provided by law.

Power of board of state charities to apprentice, discharge or remove. G. S, 178, § 17, 18. 1862, c. 189. 1863, c. 240.

SECT. 2. The board of state charities shall have the same power to apprentice or discharge any person so committed, as is now vested in overseers of houses of correction; and they may cause any such person, not having a legal settlement within this Commonwealth, to be removed to the state or place where he belongs, or whence he came, in accordance with existing laws. But if any person so removed shall return to this state before the expiration of his term of sentence, he shall be liable to be re-arrested and returned to the state workhouse, there to serve out the remainder of said term.

Support to be paid for by place of settlement, unless removed thereto.

SECT. 3. If any person so committed shall have a legal settlement in any city or town in this Commonwealth, the said city or town shall pay for his support such sum per week as may be fixed upon by the said board, reference being had to his capacity for labor; and all moneys so received shall be paid into the treasury in the manner now provided by law; *provided*, *however*, that upon the written request of said overseers, the board of state charities shall permit him to be transferred to the workhouse of his place of settlement, where he shall serve out the remainder of his sentence.

[Statutes 1870, chap. 19.]

Vagabonds, &c., may be committed to State workhouse on whose complaint. G. S. 165, §§ 28, 35. 1869, 258, § 1.

SECTION 1. Chapter two hundred and fifty-eight of the acts of the year eighteen hundred and sixty-nine is hereby so far amended, that any one of the overseers of the poor of any city or town, or in the city of Boston, any member of the board of directors for public institutions, may make the complaint provided to be made under the first section of said act.

* For these sections see next page.

[G. S., chap. 165.]

Rogues, vagabonds, &c.; R. S. 143, § 5. 1837, 217. 1856, 186. 8 Met. 513. 5 Gray, 85. See §§ 31, 34. c. 178, §§ 17, 58. See 1864, 258. 1866, 209, § 4. 1866, 235. 1869, 258. 14 Gray, 397. 1 Allen, 6. 4 Allen, 313. 5 Allen, 511. 13 Allen, 550. See 1869, c. 258. 1875, c. 70.

SECT. 28. Rogues and vagabonds, idle and dissolute persons who go about begging, persons who use any juggling or unlawful games or plays, common pipers and fiddlers, stubborn children, runaways, common drunkards, common night-walkers, pilferers, lewd, wanton, and lascivious persons in speech or behavior, common railers and brawlers, persons who neglect their calling or employment, misspend what they earn and do not provide for themselves or for the support of their families, and all other idle and disorderly persons, including therein those persons who neglect all lawful business and habitually misspend their time by frequenting houses of ill-fame, gaming houses, or tippling shops, may, upon conviction, be committed, for a term not exceeding six months, to the house of correction, or to the house of industry or workhouse within the city or town where the conviction is had, or to the workhouse, if any there is, in the city or town in which the offender has a legal settlement, if such town is within the county.

may be punished by fine, and sentenced conditionally. R. S. 143, § 6. 1837, 157. 1851, 346. 8 Met. 513.

SECT. 29. When a person is convicted, by a justice of the peace or police court, of any offence mentioned in the preceding section, he may, instead of the punishment therein mentioned, be punished by fine not exceeding twenty dollars, either with or without a condition that if the same with the costs of prosecution is not paid within a time specified, he shall be committed to the house of correction, house of industry, or workhouse, as is provided in the preceding section; which conditional sentence shall be carried into execution according to the provisions of section seven of chapter one hundred and seventy-four.

Master of house of industry, &c., to receive persons committed, &c. R. S. 87, § 41. R. S. 143, § 6. 1851, 346.

SECT. 30. The master, keeper, director, or overseer, of a house of industry or workhouse to which any person is committed under the two preceding sections, shall receive all persons so committed, set them to work if they are able, and employ and govern them in the manner required by law and prescribed by the rules and orders established for that purpose; and the city or town in which such house is situated may recover the balance of the expense of the support of any such person over and above the amount of his labor, from the party thus sentenced, or from any kindred, town, or city, liable by law for his support, if he is a pauper, in like manner as if he had been committed to the house of correction for the same offence.

Party committing offences under section twenty-eight, after appeal. R. S. 143, § 8.

SECT. 31. If any person convicted under the provisions of section twenty-eight appeals from the sentence, the commission of any like offence by him before judgment on the appeal, shall be deemed a breach of the condition of the recognizance, if any was taken upon allowing the appeal.

Respondent may be discharged on recognizance, paying costs. R. S. 143, § 9.

SECT. 32. When a person is brought before a magistrate upon a charge of any offence mentioned in section twenty-eight, such magistrate, or the court before which the cause may be carried by appeal, may in any stage of the proceedings direct the respondent or appellant to be discharged, upon his entering into a recognizance with sufficient sureties, in such sum as the magistrate or court directs, for his good behavior for a term not less than six months nor exceeding two years, and paying the costs of prosecution or such part thereof as the magistrate or court shall direct.

Disorderly persons arrested in night time. R. S. 143, § 7.

SECT. 33. A person found in a street, highway, or other public place, in the night time, committing any of the offences or disorders before mentioned, may be apprehended by any sheriff, deputy-sheriff, constable, or watchman, or by any other person by the order of any magistrate or either of said officers, without a written warrant, and kept in custody in a convenient place, not more than twenty-four hours, Sundays excepted; at or before the expiration of which time, he shall be brought before a justice of the peace or police court, and proceeded against in the manner directed in the preceding section, or discharged, as such magistrate shall determine.

[Statutes 1875, chap. 70.]

Vagrants may be required to perform labor in return for food and lodging furnished by overseers, &c. G. S. 70. 1866, 235.* 1869, 258. 1870, 19.

The overseers of the poor of any town or city, or keepers of almshouses acting under their directions, may require any person, not a resident of said town or city applying to them for and receiving from them food and lodging or either, in an almshouse or other place, to perform a reasonable amount of labor in return for such food and lodging, and may detain such person until the same is performed, but not beyond the hour of eleven in the forenoon of the day succeeding his application; and if any such person shall refuse or neglect when so required to perform such labor suited to his age, strength and capacity, or wilfully damage any of the property of such town or city in the charge of such overseers or other officers, he shall be deemed a vagrant within the meaning of the statutes relating to vagrants and vagabonds, and may be prosecuted and punished in the manner provided by chapter two hundred and fifty-eight of the acts of the year eighteen hundred and sixty-nine, or as otherwise provided by law.

[Statutes 1879, chap. 229.]

Commissioners may transfer prisoners to state workhouse or state almshouse.

SECT. 2. The commissioners of prisons whenever they shall judge that there is good cause so to do, may, by an order in writing, transfer any woman from the reformatory prison for women to the state workhouse at Bridgewater, or to the state almshouse at Tewksbury,

* This Act is an extension of G. S., Chapter 165, sections 28-33, printed on page 111.

there to be detained until the expiration of the term of time for which such woman was ordered to be imprisoned in the reformatory prison for women.

[Statutes 1879, chap. 294.]

May remove female prisoners to or from reformatory prison for women. 1879, 229, § 3.

SECT. 4. The commissioners of prisons may remove from time to time female prisoners held under sentence in any jail or house of correction in the Commonwealth, the workhouse at Bridgewater, or in the house of industry at Deer Island, to the reformatory prison for women, or therefrom to any of the aforesaid institutions, where the said prisoners shall serve the remainder of their terms of sentence.

May transfer upon application of county commissioners, from house of correction to state workhouse.

SECT. 5. Upon the application of the county commissioners of any county, the commissioners of prisons may cause any person confined in any house of correction under sentence imposed for any offence mentioned in section twenty-eight of chapter one hundred and sixty-five of the General Statutes, and chapter two hundred and thirty-five of the acts of the year eighteen hundred and sixty-six, to be transferred with the mittimus to the state workhouse, there to be kept during the remainder of the sentence in the same manner as if such person had been originally committed thereto; and the transfer shall be made in the manner prescribed in sections seven, eight, and nine of this act. The commissioners of prisons shall have the same power to discharge any person so removed as is now vested in the county commissioners.

Support of person transferred.

SECT. 6. The county from which any person is removed under the provisions of section five of this act shall pay for his support such sum per week as may be fixed by the board of state charities, and all moneys so received shall be paid into the state treasury in the manner now provided by law.

[Statutes 1879, chap. 291.]

Trustees of state almshouse. Repeals G. S. 71, § 32.

SECT. 9. The governor, with the advice and consent of the council, shall appoint five persons, including two women, who shall be known as the Board of Trustees of the State Almshouse, and who shall have the powers and perform the duties now had and performed by the inspectors of said almshouse. They shall hold office for three years; but of the five first appointed, two shall hold office for three years, two for two years, and one for one year; and all vacancies so occurring as well as vacancies otherwise arising shall be filled as above by appointment or re-appointment. And a like board of five shall be appointed and commissioned as above, and shall be known as the Board of Trustees of the State Workhouse, and shall have all the powers, and perform all the duties now had and performed by the inspectors of said workhouse and make all rules and regulations for the govern-

Trustees of state workhouse. Repeals 1866, c. 198, § 2.

ment of the same. And no person employed by either board shall be a member thereof.

Superintendents and physicians to be elected annually, and compensation fixed by trustees.

SECT. 10. The superintendents and physicians of all the state institutions herein named, except the lunatic hospitals, shall be elected annually and their compensation fixed by the board of trustees having charge of each institution respectively, said compensation having first been approved by the governor and council; and the other officers shall be hereafter appointed, and their compensation fixed by the superintendents with the approval of the trustees: *provided*, that the amount paid for such salaries shall not exceed in the aggregate the sum appropriated by the legislature for the purpose. The officers of the state lunatic hospitals shall be appointed and paid as they now are.

Officers in lunatic hospitals appointed by trustees.

[G. S., chap. 178.]

Prisoners reformed may be discharged, &c. R. S. 143, § 13. 1859, 196. See c. 165, § 34. See 1862, 189. 1866, 198, § 3. 1866, 235, § 5. 1869, 258.

SECT. 17. When it appears to the overseers or directors of a house of correction, house of industry or workhouse, that a person there confined on conviction before a justice of the peace of either of the offences mentioned in section twenty-eight of chapter one hundred and sixty-five, has reformed and is willing and desirous to return to an orderly course of life, they may, by a written order, discharge him from confinement. Any person committed by the superior court, or any police court, for either of said offences, may be discharged by such courts respectively upon the recommendation of the overseers or directors.

[Statutes 1862, chap. 189.]

Certain reformed convicts, how discharged. G. S. 165, § 28.

When it appears to the overseers or directors of a house of correction, house of industry or workhouse, that a person there confined on conviction before any police court * of either of the offences mentioned in section twenty-eight of chapter one hundred and sixty-five of the General Statutes, has reformed, and is willing and desirous to return to an orderly course of life, they may by a written order discharge him from confinement.

[Statutes 1875, chap. 94.]

Certain persons sentenced to state workhouse to be supported at expense of towns in which they have settlement. 1866, 198. 1870, 288.

SECT. 2. Chapter two hundred and eighty-eight of the acts of the year eighteen hundred and seventy is hereby amended in the first section, by adding thereto the words, "if any person so committed shall have a legal settlement in any city or town in this Commonwealth, the said city or town shall pay for his support such sum per week as may be fixed upon by the said board, and all moneys so received shall be paid into the treasury in the manner now provided by law."

* In an opinion of the Attorney-General appear these words: "A police court includes district and municipal courts."

[Statutes 1860, chap. 83.]

Section 1. Any person having received a permit from the overseers of the poor of any city or town to become an inmate of any state almshouse or hospital, and expressing a preference to be sent to any state or place where said pauper may have a legal settlement, or friends willing to support him, the board of alien commissioners shall have power to remove said pauper, previous to his committal to any state institution, if in their judgment the interest of the Commonwealth and of the pauper will be promoted thereby: *provided*, that no person shall be so removed, unless, in the judgment of said overseers and commissioners, he will become a charge to the state for at least one year; and said commissioners shall return, in their annual report, the names of all persons removed under the provisions of this act, the places whence removed, and the cost of the several removals.

Certain state paupers may be removed by alien commissioners to place of settlement, if, &c.

G. S. 71, §§ 5, 7, 35, 36.

See 1863, 240, § 6.

Commissioners to make return of such removals.

Sect. 2. The names of persons so removed shall be duly entered upon the register of the almshouse or hospital, together with the usual details of their history, and shall be recorded by the several superintendents, as discharged, to the alien commissioners, for the purposes of removal, from the state, in the same manner as persons removed under the acts of eighteen hundred and fifty-nine, chapter two hundred and fifty-five.

Proceedings upon such removals. 1859, 255. G. S. 71, §§ 5, 7, 35, 36.

THE SETTLEMENT LAWS.

[Statutes 1878, chap. 190.]

Section 1. Legal settlements may be acquired in any city or town, so as to oblige such place to relieve and support the persons acquiring the same, in case they are poor, and stand in need of relief, in the manner following, and not otherwise, namely: —

Legal settlements, how acquired. G. S. 69.

First. A married woman shall follow and have the settlement of her husband, if he has any within the state; otherwise her own at the time of the marriage, if she then had any, shall not be lost or suspended by the marriage.

Married woman.

Second. Legitimate children shall follow and have the settlement of their father, if he has any within the state, until they gain a settlement of their own; but if he has none, they shall in like manner follow and have the settlement of their mother, if she has any.

Legitimate children.

Third. Illegitimate children shall follow and have the settlement of their mother at the time of their birth, if she then has any within the state; but neither legitimate nor illegitimate children shall gain a settlement by birth in the place where they may be born, if neither of their parents then has a settlement therein.

Illegitimate children.

Fourth. Any person of the age of twenty-one years, having an estate of inheritance or freehold in any place

Person of twenty-one years,

having an estate, &c. 1868, 328. 1871, 379. 110 Mass., 113.

within the state, and living on the same three years successively, shall thereby gain a settlement in such place.

Fifth. Any person of the age of twenty-one years, who resides in any place within this state for five years together, and pays all state, county, city or town taxes, duly assessed on his poll or estate, for any three years within that time, shall thereby gain a settlement in such place.

Person of twenty-one years, resident for five years, &c. 1874, 274. 147 Mass., 598.

Sixth. Any woman of the age of twenty-one years who resides in any place within this state for five years together, without receiving relief as a pauper, shall thereby gain a settlement in such place.

Woman of twenty-one years, resident for five years, &c. 120 Mass., 574.

Seventh. Any person being chosen, and actually serving one whole year in the office of clerk, treasurer, selectman, overseer of the poor, assessor, constable, or collector of taxes, in any place, shall thereby gain a settlement therein. For this purpose, a year shall be considered as including the time between the choice of such officers at one annual meeting and the choice at the next annual meeting, whether more or less than a calendar year.

Certain town officers.

Eighth. Every settled ordained minister of the gospel shall be deemed to have acquired a legal settlement in the place wherein he is or may be settled as a minister.

Settled ordained minister.

Ninth. A minor who serves an apprenticeship to a lawful trade for the space of four years in any place, and actually sets up such trade therein within one year after the expiration of said term, being then twenty-one years old, and continues there to carry on the same for five years, shall thereby gain a settlement in such place; but being hired as a journeyman shall not be considered as setting up a trade.

Four years' apprenticeship during minority, and setting up trade within one year after.

Tenth. Any person who shall have been duly enlisted and mustered into the military or naval service of the United States, as a part of the quota of any city or town in this Commonwealth, under any call of the President of the United States during the late civil war, or duly assigned as a part of the quota thereof, after having been enlisted and mustered into said service, and shall have duly served for not less than one year, or shall have died, or become disabled from wounds or disease received or contracted while engaged in such service, or while a prisoner in the hands of the enemy, and the wife or widow and minor children of such person, shall be deemed thereby to have acquired a settlement in such place; and any person who would otherwise be entitled to a settlement under this clause, but who was not a part of the quota of any city or town, shall, if he served as a part of the quota of this Commonwealth, be deemed to have acquired a settlement in the place where he actually resided at the time of his enlistment. But these provisions shall not apply to any person who shall have enlisted and received a bounty for such enlistment in more than one place, unless the second enlistment was made after an honorable discharge from the first term of service, nor to any person who shall

Soldiers and sailors in the late war. 1865, 230. 1866, 288. 1870, 392.

have been proved guilty of wilful desertion, or to have left the service otherwise than by reason of disability or an honorable discharge.

Eleventh. Upon the division of a city or town, every person having a legal settlement therein, but being absent at the time of such division, and not having acquired a legal settlement elsewhere, shall have his legal settlement in that place wherein his last dwelling place or home happens to fall upon such division; and when a new city or town is incorporated, composed of a part of one or more incorporated places, every person legally settled in the places of which such new city or town is so composed, and who actually dwells and has his home within the bounds of such new city or town at the time of its incorporation, and any person duly qualified as provided in the tenth clause of this section, who, at the time of his enlistment, dwelt and had his home within such bounds, shall thereby acquire a legal settlement in such new place: *provided*, that no persons residing in that part of a place, which, upon such division, shall be incorporated into a new city or town, having then no legal settlement therein, shall acquire any by force of such incorporation only; nor shall such incorporation prevent his acquiring a settlement therein within the time and by the means by which he would have gained it there if no such division had been made. Division of cities and towns.

SECT. 2. No person who has begun to acquire a settlement by the laws in force at and before the time when this act takes effect, in any of the ways in which any time is prescribed for a residence, or for the continuance or succession of any other act, shall be prevented or delayed by the provisions of this act; but he shall acquire a settlement by a continuance or succession of the same residence or other act, in the same time and manner as if the former laws had continued in force. Settlement under continuance of residence, &c., under former laws.

SECT. 3. Except as hereinafter provided, every legal settlement shall continue till it is lost or defeated by acquiring a new one within this state; and upon acquiring such new settlement all former settlements shall be defeated and lost. Old settlement to continue until new is acquired.

SECT. 4. All settlements acquired by virtue of any provision of law in force prior to the eleventh day of February in the year one thousand seven hundred and ninety-four, are hereby defeated and lost: *provided*, this shall not apply where the existence of such settlement prevented a subsequent acquisition of settlement in the same place under the provisions of clauses fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh of the first section of this act, or under the same provisions in other statutes existing prior to the passage of this act; and *provided*, *further*, that, whenever a settlement acquired by marriage has been thus defeated, the former settlement of the wife, if not defeated by the same provision, shall be deemed to have been thereby revived. Settlements acquired under laws in force prior to Feb. 11, 1794. 1870, 392.

Repeal of G. S. 69. 1866, 288. 1868, 328, § 1. 1870, 392. 1871, 379. 1872, 280, 323. 1874, 274. Superseded.

Rights preserved.

SECT. 5. Chapter sixty-nine of the General Statutes, chapter two hundred and eighty-eight of the acts of the year one thousand eight hundred and sixty-six, section one of chapter three hundred and twenty-eight of the acts of the year one thousand eight hundred and sixty-eight, chapter three hundred and ninety-two of the acts of the year one thousand eight hundred and seventy, chapter three hundred and seventy-nine of the acts of the year one thousand eight hundred and seventy-one, chapter two hundred and eighty of the acts of the year one thousand eight hundred and seventy-two, and chapter two hundred and seventy-four of the acts of the year one thousand eight hundred and seventy-four, are hereby repealed saving all acts done, or rights accruing, accrued, or established, or proceedings, doings, or acts ratified or confirmed, or suits or proceedings had or commenced, before the repeal takes effect. [*Approved April 22, 1878.*

[Statutes 1879, chap. 242.]

Settlement of paupers.

SECTION 1. Section one of chapter one hundred and ninety of the acts of the year eighteen hundred and seventy-eight is hereby amended by striking out, in the sixth clause thereof, the words "without receiving relief as a pauper," and by adding at the end of said section the words following: "*Provided, however*, that nothing in this section contained shall be construed to give to any person the right to acquire a settlement, or be in process of acquiring a settlement while receiving relief as a pauper, unless within five years from the time of receiving such relief he shall reimburse the cost thereof to the city or town furnishing the same."

Married women and widows.

SECT. 2. The provisions of said sixth clause shall be held to apply to married women who have not a settlement derived by marriage under the provisions of the first clause, and to widows; and a settlement thereunder shall be deemed to have been gained by any unsettled woman upon the completion of the term of residence therein mentioned, although the whole or a part of the same accrues before the passage of this act. [*Approved April 22, 1879.*

SETTLEMENT. — A DIGEST OF DECISIONS.

If an insane pauper, having his settlement in this Commonwealth, and confined under sentence, in a house of correction, is duly committed, by order of a judge of probate, to a state lunatic hospital, the town where such pauper has his settlement is liable for the expenses of his support, even after the expiration of the time for which he was sentenced to the house of correction. Smith *v.* Lee, 12 Allen, 510 (1866).

A married woman does not acquire a settlement in a town by her husband's living on an estate of freehold

therein three years successively, if, during any portion of that time, the town where they formerly lived supported her as a pauper in a lunatic hospital out of the Commonwealth. Oakham *v.* Warwick, 13 Allen, 88 (1866).

A general law, changing the rules of settlement, and having the effect to transfer, from one town to another, the obligation to support paupers, is not therefore unconstitutional. Bridgewater *v.* Plymouth, 97 Mass., 382 (1867).

The term "quota of any city or town," in statute of 1865, chapter 230, section 1, includes every person who, during the recent civil war, was enlisted and mustered into the military or naval service of the United States, and, after quotas of cities and towns were legally recognized and assigned, was credited to the quota of such city or town under any call of the President, although his term of service ended before any such legal recognition and assignment. *Ib.*

A person legally capable of choosing or changing his domicil, who is residing in a city or town in this Commonwealth, with the purpose of there remaining for an indefinite time, and without retaining and keeping up any intention to return to his former home in another city or town in this Commonwealth, has his domicil in the place of his actual residence. Wilbraham *v.* Ludlow, 99 Mass., 587 (1868).

A person legally capable of choosing or changing his domicil, who abandons his home, and thenceforth wanders from town to town, working as a day-laborer "with no purpose in view, and with no opinions, desires or intentions in relation to residence, except to have a home wherever he works," ceases to have a continuing domicil, for the purpose of acquiring a settlement in the town where the home is which he so abandons. *Ib.*

A written discharge issued to a soldier by the proper military authorities, on a surgeon's certificate of disability, is conclusive evidence, in any action between two towns concerning his settlement as a pauper, under the Statute of 1865, chapter 230, of the cause of his leaving the service; and evidence is not admissible to show that the certificate was obtained by undue influence, especially without any evidence that such influence was exercised by the soldier himself; nor is evidence that he was absent without leave, and was arrested for desertion, admissible to show that he was guilty of wilful desertion, in the absence of evidence that he was tried for desertion, and convicted thereof. Fitchburg *v.* Lunenburg, 102 Mass., 358 (1869).

The disability of a soldier from wounds or disease contracted while he was engaged in the military service of the United States during the civil war, intended by the Statute of 1865, chapter 230, section 1, to give him a settlement in the town to whose quota he belonged, is

such a disability, and such only, as terminated his military service within one year from his enlistment. Wayland *v.* Ware, 104 Mass., 46 (1870).

The Statute of 1865, chapter 230, section 1, gives a settlement to a soldier credited to the quota of a town, in conformity with its terms, even if he was credited in excess of the proportion due from the town at the time of such credit. *Ib.*

On the trial of an issue between two towns of the settlement of an infant pauper, it is incompetent for the mother to testify that the infant, though born in wedlock, is illegitimate. Abington *v.* Duxbury, 105 Mass., 287 (1870).

A man is not prevented from gaining a settlement, under the General Statutes, chapter 69, section 1, clause 12, in a town in which he has lived for ten years together under a fictitious name, and paid poll and other taxes assessed on him under that name, for five years within said time, by the fact that he has deserted his wife and children meanwhile in the town where he was formerly settled, and its officers have, in one year of the ten, given her some aid without his knowledge, or ever calling on him for payment. Wareham *v.* Milford, 105 Mass., 293 (1870).

In an action by one town to recover from another the expense of supporting, as a pauper, a married woman alleged to have her settlement with the defendants, it is competent for them to prove that her husband has a settlement in the Commonwealth elsewhere than with them, derived from his mother, without first proving that he derived no settlement from his father. Abington *v.* Duxbury, 105 Mass., 287 (1870).

A soldier discharged for disability does not thereby acquire a settlement under the Statute of 1865, chapter 230, unless the disability arose from wounds or disease received or contracted in the service, and there is no presumption that it did so arise. Ashland *v.* Marlborough, 106 Mass., 266 (1871).

In an action between two towns to recover for expenses incurred by the plaintiffs, in supporting a pauper alleged to have a settlement with the defendants, it was admitted that he had no other than a derivative settlement, and was found as a fact, that he derived a settlement with the defendants from his ancestors, unless his grandfather acquired one with the plaintiffs. Held that the burden of proving that the grandfather acquired such a settlement was on the defendants. Dana *v.* Petersham, 107 Mass., 598 (1871).

Evidence that a man who resided in a town eighteen years, in occupation of real estate, was taxed there on his poll in five years of the eighteen, and also on real estate in four years of the five, and that, in two of the five years, his name was on the voting-list of the town, is not conclusive that the taxes were paid by him. *Ib.*

The provisions of the Statutes of 1865, chapter 230, and 1868, chapter 328, section 3, relating to the acquirement by soldiers in the civil war of settlements in cities or towns of which they were inhabitants, and as part of whose quotas they were duly enlisted and mustered, apply to drafted men as well as volunteers; and it is immaterial to the question whether a soldier gained a settlement under those provisions, that, after having been in due form enlisted and mustered, and having served one year and more, he was discharged as illegally drafted. Sheffield *v.* Otis, 107 Mass., 282 (1871).

The Statute of 1866, chapter 234, section 1, does not oblige a town to support a state pauper whose wife has a settlement in the town, unless she is also a pauper. Belchertown *v.* Ludlow, 110 Mass., 98 (1872).

The owner of land, for a consideration paid by A and B, executed and delivered a deed of the land to A and B, reserving and giving to C the use of the land during his life, to have and to hold the land to A and B and their heirs, to their use. C entered upon the land under the deed, and occupied it for three years successively. Held, that he had an equitable freehold in the land, and had acquired a settlement in the town where the land lay, although the deed was not recorded. Conway *v.* Ashfield, 110 Mass., 113 (1872).

Action brought to recover of defendants — inhabitants of Hopkinton — expenses incurred by plaintiffs — inhabitants of Bellingham — in the support of Montcalm S. Pettes, a pauper. James Pettes, grandfather of the pauper, had a settlement in Rehoboth, in this state, acquired by virtue of the provisions of law in force before Feb. 11, 1794; but if he had not acquired a settlement prior to that date, he could not have acquired one after that date in Rehoboth, where he continued to reside until about 1800. About the year 1800, James Pettes removed from Rehoboth to Hopkinton, where he continued to reside until 1819, but acquired no settlement there, and, in 1819, was removed to Rehoboth as a pauper, and supported there until his death, a few years after. Jacob Pettes, son of said James, and father of the pauper, was born in Rehoboth, and came with his father to Hopkinton, being then a minor, about the year 1800, and continued to reside in Hopkinton until his death, about the year 1832, but acquired no settlement there. Hezekiah Rice, grandfather of the pauper, on his mother's side, took a conveyance of a farm in Hopkinton, from said town, April 5, 1773, and from that date to the time of his death, in 1827, continued to reside in said town on said farm and acquired a settlement there by reason of owning and living on said farm. Sally Rice, daughter of said Hezekiah, and mother of the pauper, was born in Hopkinton about the year 1780, and continued to reside in that town until her death in 1842. Said Jacob Pettes

and Sally Rice were married about 1810, and their son, the pauper, was born in Hopkinton about 1816, but has never acquired any settlement unless by derivation from or through his father or mother. The pauper fell into distress in Bellingham, Nov. 2, 1871. Held, that the existence of this settlement of Jacob Pettes, derived from his father, James Pettes, prevented the subsequent acquisition, by the pauper, of a settlement in Hopkinton, derived, through his mother, from Hezekiah Rice. Under the exception in the Statute of 1870, chapter 392, section 2, he therefore retained his settlement derived through his father, from James Pettes, his grandfather. This settlement, being neither acquired by marriage, nor defeated by virtue of the provisions of the Statute of 1870, chapter 392, section 2, is not within the direct operation of the Statute of 1871, chapter 379, section 3. Bellingham *v.* Hopkinton, 114 Mass., 553 (1874).

The town record, kept pursuant to the Statute of 1863, chapters 65, 229, of the soldiers who composed the town's quota of the troops furnished by the Commonwealth to the United States, is competent evidence of the enlistment of one of such soldiers, and of payment of bounty to him. Intentional absence from military service without leave does not of itself constitute the crime of wilful desertion; there must be, in addition, the intention not to return to the service. The "wilful desertion" referred to in the Statute of 1865, chapter 230, section 3, is the "desertion" defined by the Articles of War, United States Statutes, 1806, chapter 20, article 20. Hanson *v.* South Scituate, 115 Mass., 336 (1874).

The husband of a pauper had a derivative settlement in a town, from his grandfather, acquired under provisions of law in force prior to Feb. 11, 1794. The father of the husband had also resided in the town for ten years together, and paid taxes there for five years while the husband was a minor. Neither the husband nor the pauper, after his death, had complied with the conditions necessary to acquire a settlement in their own right. Held, that the pauper had a legal settlement in the town. Adams *v.* Ipswich, 116 Mass., 570 (1874).

The transfer, authorized by the General Statutes, chapter 71, section 7, of an inmate of a state lunatic hospital, from that institution to another, is properly made under the authority of the original mittimus. *Ib.*

The right of the Commonwealth to recover from the town of a pauper's settlement, money paid out of the treasury for his support at a state lunatic hospital, under the General Statutes, chapter 73, section 24, and the Statute of 1862, chapter 223, section 11, is not affected by the Statute of 1870, chapter 105. *Ib.*

The right of the Commonwealth to recover from a town money paid for the support of a pauper at a state lunatic hospital, is not limited by the fact that the town had no

notice that the pauper was chargeable to it, or of his commitment to the hospital. *Ib.*

On the issue, whether a female pauper had a settlement in the town of S——, derived from her grandfather, there was evidence that the grandfather was born in that town in 1759. An aged witness testified that he knew a lot of land near the line between the towns of R—— and S——, which he was accustomed in his youth to see and hear people of the town point out and speak of as the lot of the father of said grandfather, — the lot where he lived. It appeared also, in evidence, that in 1790, a part of the town of S—— had been set off and made another town; and it was provided by statute, that persons born in the limits of the new town, and becoming chargeable for support, should be the poor thereof. Held, that the burden of the proof was on the plaintiff to show that the pauper's grandfather had a settlement within the present limits of the town of S——, and that there was no evidence to warrant a judge, who tried the case without a jury, in so finding. Adams *v.* Swansea, 116 Mass., 591 (1874).

In an action to enforce a statute liability, the burden is on the plaintiff to prove all the facts, which, by the statutory provisions, are necessary to create the liability.

A town furnished supplies to a person, and, in pursuance of the General Statutes, chapter 70, section 17, notified the overseers of the town of his settlement, requesting them to remove him. The overseers of the latter town neglected to reply to the letter within two months. Held, in an action by the first town against the second for the expenses of the support, that the defendant was not estopped by the General Statutes, chapter 70, section 18, to deny that the person to whom the supplies were furnished was in need of immediate relief. New Bedford *v.* Hingham, 117 Mass., 445 (1875).

In an action under the General Statutes, chapter 73, section 25, by a town for expenses paid for the support of a lunatic committed to a state hospital, against the town where he has a settlement, the plaintiff must show that the lunatic was a pauper at the time the relief was furnished. Waltham *v.* Brookline, 119 Mass., 479 (1876).

After the Provincial Statutes of 1767 (7 G. III.), chapter 3, section 4, and before the Statute of 1879, chapter 14, no person could gain a settlement by residence in a town for any length of time, although not warned away, without obtaining the approbation of the town at a general meeting.

In an action by one town against another, for the support of a pauper, it appeared that, by the statute of 1850, chapter 309, the defendant town was set off from the plaintiff town; that the grandfather of the pauper in 1785 bought an estate of the clear annual income of three pounds in that part of the town which became the defendant town by the division, and resided there until his death

in 1831 ; that his son, the father of the pauper, came to the plaintiff town with his father, and in 1815 moved with his family on to a place which is now in the plaintiff town, and in 1823 bought and moved on to a freehold estate in that part of the town which remained within the limits of the plaintiff town on its division, and resided there continually with his family, including the pauper, until 1832, when he and his family moved to another town ; and that the pauper was absent from the plaintiff town when it was divided, and his last dwelling place in the town was in that part of it which remained the plaintiff town after its division. Held, that by the Statute of 1879 chapter 14, the grandfather acquired a settlement by his two years' ownership and residence ; that this settlement was derived by the pauper ; that the effect of such settlement was not changed by the fact of the removal of the father of the pauper to another part of the old town, or to another town, and of his absence when the town was divided ; and that by the Statute of 1850, chapter 309, section 3, which provides that the two towns "shall be respectively liable for the support of all persons who now do, or hereafter shall, stand in need of relief as paupers, whose settlement was gained by, or derived from, a settlement gained or derived within their respective limits," the pauper was chargeable to the defendant town. Malden *v.* Melrose, 125 Mass., 304 (1878).

In action for the support of a pauper, it appeared that the husband of the pauper resided on a freehold estate in the defendant town from January, 1863, to January, 1868, that during the whole of this period he was more than twenty-one years of age ; that he was an alien until November, 1864, when he became a naturalized citizen ; that in May, 1867, his wife became an insane pauper, and with his consent was committed to the state lunatic hospital ; and that in January, 1868, he ceased to be a resident of the defendant town. Held, that by the Statutes 1868, chapter 328, section 1, as amended by the Statutes 1871, chapter 379, section 1, the husband of the pauper acquired a settlement in the defendant town. The Statute of 1868, chapter 328, section 1, as amended by Statute 1871, chapter 379, section 1, relating to the settlement of paupers, is constitutional. Endicott *v.* Hopkinton, 125 Mass., 521 (1878).

Supreme Judicial Court. September Law Term, 1879.

City of Worcester *v.* City of Springfield.

Opinion of the Court.

This is an action to recover for aid furnished to the wife and minor children of John Maloney as paupers in the years 1876 and 1877.

It appeared that said Maloney resided in Springfield from July,

1862, to December, 1867, and paid taxes duly assessed to him for three years within that time. He became of the age of twenty-one years in May, 1861. This is sufficient to give him a settlement in Springfield under the first section of the Statute of 1874, chapter 274, if it applied to his case. But that section is qualified by the third section, which provides that "no existing settlement shall be changed by any provision of this act, unless the entire residence and taxation herein required accrues after its passage; but any unsettled person shall be deemed to have gained a settlement upon the completion of the residence and taxation herein required, though the whole or a part of the same accrues before the passage of this act." As the residence and taxation of said Maloney in Springfield was wholly before the passage of the act, he would not thereby gain a settlement, unless he was an "unsettled person" having no existing settlement. This depends upon the question whether he had a settlement in Wales, derived from his father, Michael Maloney.

Upon this question, the facts agreed are that said Michael, a native of Ireland, came to this country in 1852, being then over the age of twenty-one years, and resided in Wales with his family, among whom was his son John, until the year 1861, when John became of age; and that, between 1852 and 1861, said Michael lived upon an estate of freehold, owned by him in said Wales, for more than three years successively. This would have given said Michael a settlement in Wales under the General Statutes, chapter 69, section 1, clause 4, if he had not been an alien.

The Statute of 1868, chapter 328, section 1, as amended by the Statute of 1871, chapter 379, was intended to remove all disabilities arising from alienage; and it provides that "hereafter any person of the age of twenty-one years, having the other qualifications mentioned in the fourth, fifth, ninth, and twelfth clauses of the first section of chapter sixty-nine of the General Statutes, shall be deemed to have thereby gained a settlement as therein provided, although not a citizen of this or any other of the United States, whether such other qualifications shall have been acquired before or after the enactment hereof." Under those statutes, said Michael must be deemed to have gained a settlement in Wales by virtue of his three years living upon an estate of freehold owned by him, and all the legal consequences and incidents of such settlement must follow. *Endicott* v. *Hopkinton*, 125 Mass., 521; *Commonwealth* v. *Sudbury*, 106 Mass., 268.

Among those consequences is that his minor children who were living with him would gain from their father the same settlement. The Statute of 1868, as amended, was clearly designed to be retroactive, and its effect is to fix the time when the settlement of said Michael in Wales commenced, to be at the expiration of the three years' occupancy of an estate of freehold. At that time said John was a minor living with his father, and the result is that he then gained a derivative settlement in Wales, which continues until he acquires a new one. As he had acquired no new settlement before he went to Springfield, his settlement in Wales continued and was an "existing settlement," which was not, under the Statute of 1874, chapter 274, changed by his residence in Springfield.

[Statutes 1874, chap. 170.]

Sick convict may be provided for in jail, &c., after expiration of sentence. G. S. 71, § 42.

SECTION 1. Any convict who, at the legal expiration of his sentence, is in such condition from bodily infirmity or disease as to render his removal impracticable, shall be provided for and receive such treatment in the state prison, jail, house of correction or house of industry in which he was confined, as the exigency of the case may require, until he is in a condition to be removed. The expense of such care and treatment of any discharged convict shall be paid at a rate not exceeding three dollars

Expenses.

and fifty cents per week, by the city or town where he may have a legal settlement, after notice upon expiration of sentence shall have been given by the authorities of the prison to the overseers of the poor of the city or town liable for his support, or to the board of state charities, if he be a state pauper, of the condition of said discharged convict.

BASTARD CHILDREN.

[G. S., chap. 72.]

Complaint, how to be made. 1863, c. 127, 240. 1866, c. 292. 1871, c. 42.

SECTION 1. When a woman who has been delivered of a bastard child, or is pregnant with a child which if born alive may be a bastard, makes a complaint to a justice of the peace or police court, and desires to institute a prosecution against the person whom she accuses as being the father of the child, the justice or court shall take her accusation and examination, in writing under oath, respecting the person accused, the time when and place where the complainant was begotten with child, and such other circumstances as the justice or court deems necessary for the discovery of the truth of such accusation. . . .

Who may complain, &c., if woman refuses. G. S. 71. 1863, c. 240. 1859, 239, § 3. 3 Allen, 481. 8 Allen, 334. 10 Allen, 389.

SECT. 2. If a woman entitled to make a complaint refuses or neglects so to do when requested by an overseer of the poor of the place where she resides or has her settlement, or one of the alien commissioners, the superintendent of a state almshouse, . . . or a person authorized by either of them to make the request, or either of her parents, or her guardian, the person so requesting may make the complaint; and when already made, if she refuses or neglects to prosecute the same, either of said persons may prosecute the case to final judgment, for the benefit of the parent, guardian, city, town, or state. In such cases the bond shall be made to the party for whose benefit the complaint is made or prosecuted.

If woman is in state almshouse, complaint where made. 1859, 239, §§ 2, 6.

SECT. 3. When a woman is an inmate of either of the state almshouses, a complaint by her or in her behalf may be made either in the county where she then is, or where she last had her usual place of abode before becoming such inmate, and the warrant shall be returnable in the latter county or the county where the defendant resides.

Complaint not to be withdrawn without consent, &c. 1862, c. 213. 1863, c. 127. 1859, 239, § 5. 3 Allen, 149. 4 Allen, 59. 9 Allen, 459.

SECT. 9. No complaint shall be withdrawn, dismissed, or settled, by agreement of the mother and the putative father, without the consent of the overseers of the poor of the city or town in which she has her settlement or residence, or of one of the other officers named in section two, or of her parent or guardian, unless provision is made to the satisfaction of the court, to relieve and indemnify any parent, guardian, city, town, or the state, from all charges that have accrued or may accrue for the maintenance of the child, and for the costs of complaint and the prosecution thereof.

SECT. 10. No settlement made by the mother and father, before or after complaint is made, shall relieve the father from liability to any city or town, or the state, for the support of a bastard child.

Liability for support. 1863, c. 127. 1859, 239, § 5.

[Statutes 1862, chap. 213.]

Public officers authorized to institute prosecutions and make complaints under the seventy-second chapter of the General Statutes, may, with the consent of the mother or of her parent or guardian, compromise the same on receipt of a fixed sum or security for the payment thereof, for the benefit of the city, town, or Commonwealth, as the case may be, instead of prosecuting the same to final judgment.

Bastardy cases, how may be compromised. G. S. 72. 1863, c. 240.

A DIGEST OF DECISIONS ON BASTARDY.

No statute of limitation in this Commonwealth applies to complaints for the maintenance of bastard children. Wheelwright *v.* Greer, 10 Allen, 389 (1865).

If a woman has made a complaint for the maintenance of her bastard child, and afterwards refuses or neglects to prosecute it, those statutes (Gen. Stats., chap. 72, sect. 2, and Stat. 1859, chap. 239, sect. 3) do not authorize the officers therein named to make a new complaint, but to prosecute the existing one. *Ib.*

If a bastard child is born in this Commonwealth, and both its parents reside here at the time of its birth, a complaint against the father under the bastardy act may be maintained, although the child was begotten in Canada and both parents then resided there. McFadden *v.* Frye, 13 Allen, 472 (1866).

A complaint for the support of a bastard child during its life may be commenced and maintained after its death. Meredith *v.* Wall, 14 Allen, 155 (1867).

LUNATIC HOSPITAL FINANCES.

[G. S., chap. 73.]

SECT. 32. No pauper shall be discharged from either hospital without suitable clothing; and the trustees may furnish the same at their discretion, together with such sum of money, not exceeding twenty dollars, as they may deem necessary.

Trustees may furnish clothing, &c. R. S. 48, § 13.

[Statutes 1862, chap. 223.]

SECT. 16. The money and cost of clothing which the trustees of any state lunatic hospital may by law furnish to discharged pauper lunatics, the expense of pursuing such as elope therefrom, and of burial of pauper lunatics dying in the hospitals, shall be reimbursed to the trustees by the places of legal settlement of city and town paupers, and by the Commonwealth in the case of state paupers.

Cost of clothing, burial, &c., of paupers, how paid.

[Statutes 1864, chap. 288.]

Board to certify probable quarterly expense for support. 1862, c. 223, § 11. 1864, 138. 1870, c. 105. Ninety per cent to be paid in advance.

SECT. 12. It shall be the duty of the board of state charities to certify to the auditor, within one week from the commencement of each quarter of the financial year, the probable amount due to each lunatic hospital for the support of state pauper inmates during said quarter. And upon application of any board of trustees of said hospitals the auditor may draw his warrant for a sum not exceeding ninety per cent. of the amount so certified, and the same shall be paid to the treasurer of the hospital making the application, to be used towards the payment of its current expenses incurred within the financial year.

[Statutes 1870, chap. 105.]

Cost for insane state paupers not to exceed $3.50 per week. G. S. 73, § 24. 1862, c. 223. 1864, c. 138, § 1, c. 288. Amended 1879, c. 88.

The expenses of the state lunatic hospitals for the support of lunatics not having known settlements in this state, committed thereto, shall be paid quarterly by the Commonwealth at the same rate charged for city and town pauper lunatics therein, but not to exceed the sum of three dollars and fifty cents for each person per week; and the same may afterwards be recovered, by the treasurer of the Commonwealth, of the lunatics themselves, if of sufficient ability to pay the same, or of any person of kindred obligated by law to maintain them, or of the place of their settlement, if any such is ascertained.

[Statutes 1879, chap. 88.]

Expense of support of insane state paupers.

Section one of chapter one hundred and five of the acts of the year eighteen hundred and seventy is hereby amended by striking out the words "and fifty cents" in the sixth line thereof.

ALIEN PASSENGERS.

[General Statutes, chap. 71.*]

Board of alien commissioners, how constituted. 1851, 342, §1. 1856, 294, § 1. 1863, c. 240.

SECTION 1. There shall be a board of commissioners in relation to alien passengers and state paupers. . . . which board shall superintend the execution of all laws in relation to the introduction of aliens into the Commonwealth, and the support of state paupers therein.

Commissioners may appoint persons to visit almshouses.

SECT. 3. The commissioners may appoint one or more persons, who shall at least once in every year visit all the almshouses or places where state paupers are supported, and ascertain from actual examination and inquiry whether the laws in respect to such paupers are properly regarded, particularly in relation to such as are able to labor; and if infractions of the laws are discovered, make immediate report thereof to the commissioners. The commissioners shall give such directions as will insure correctness in the returns required in relation to paupers, and may use such means as are necessary to collect all desired information in relation to their support.

Shall give directions relative to pauper returns, &c. 1851, 342, § 2.

* See Statutes of 1879, chap. 291.

Commissioners to appoint agents to procure information respecting foreigners arriving in this state. 1851, 342, §§ 3, 4. See § 25. 1866, 272.

SECT. 4. They shall appoint one or more persons, to be approved by the governor and council, who shall ascertain the names of all foreigners brought into this state by any conveyance by land, or by any lines of communication established for the regular transportation of passengers by water, not extending beyond or stopping at places without the United States, and also procure such further information in relation to such foreigners as is practicable in order to identify them if they should hereafter become a public charge. All officers and agents of railroad corporations, and proprietors or agents of other means of conveyance, shall furnish the agents of the Commonwealth, when so required, with the information above named so far as in their power, by filling up blanks to be furnished them for that purpose. If any of said persons refuse or neglect to furnish such information when requested, they shall be punishable by fine not less than twenty dollars for each person in relation to whom the information is withheld.

Shall prescribe form of annual returns and of certificates to be used in sending paupers to state almshouses. 1856, 171, § 1. 1860, 83. 1863, 240, § 6. 1879, c. 291.

SECT. 5. They shall prescribe to the superintendent of each state almshouse . . . the forms for statistical returns to be made by them in their annual report, in relation to the sex, age, and nativity of the inmates, and the places from whence they were sent. They shall also prescribe the form of certificates required of mayors of cities, or overseers of the poor of towns, when a pauper is sent therefrom to either of the state almshouses; which certificate shall contain such inquiries in relation to the age, parentage, birthplace, and former residence of, and other facts relating to, the pauper, as they may deem necessary, to which mayors and overseers of the poor shall render true answers as far as they are able, before the pauper is received into the almshouse. The several cities and towns shall be furnished with blank forms of said certificate by the commissioner.

Superintendents of alien passengers, how appointed, qualified, and paid. 1848, 313, §§ 1, 2. 1858, 132. 1863, 240, § 6. 1869, 251.

SECT. 11. The governor, with the advice and consent of the council, shall, when necessary, appoint and commission in each maritime place some suitable person to be superintendent of alien passengers therefor, who, before entering upon the duties of his office, shall be sworn, and give bond, with sufficient sureties for the performance thereof, to the treasurer of the Commonwealth, in such sum as shall be specified in his commission, and he shall hold his office until another is appointed, commissioned, and qualified in his stead.

Duties of superintendents. 1848, 313, § 1. See 1866, 292.

SECT. 12. Each superintendent shall from time to time designate places for the examination of vessels as hereinafter mentioned, and shall require the pilots of the ports of his city or town to anchor such vessels at the places so designated, there to remain until such examination is had. Any pilot who refuses or neglects to perform said duty, or who through negligence or design permits any alien passenger to land before such examination, shall

forfeit not less than fifty nor more than two thousand dollars.

Same subject. 1848, 313, § 3. 1851, 342, § 4.

SECT. 13. The superintendents shall have the care and oversight of all matters arising under the four following sections in the cities or towns for which they are appointed; and when a breach of any provision thereof comes to their knowledge, they shall, with the advice of the district attorney for their district, institute prosecutions for the forfeitures incurred.

To board vessels arriving with alien passengers, &c. 1848, 313, § 4. 1850, 105, § 1. 1851, 342, § 4. 1852, 279. See 1866, 292.

SECT. 14. When a vessel which does not belong to a line of communication established for the regular transportation of passengers by water and not extending beyond or stopping at places without the limits of the United States, arrives at any port or harbor within this state, with alien passengers on board who have never before been within the state, or who, if so, were a public charge as lunatics or paupers, the superintendent of the place where it is intended to land such passengers shall go on board such vessels and examine into the condition of such passengers; and the master or commanding officer of the vessel shall, within twenty-four hours after such arrival, make a report in writing under oath to said superintendent, of the name, age, sex, occupation, place of birth, last place of residence, and condition of every such passenger; and none of them shall be landed or permitted to land, except as is hereinafter provided, until such report is made.

Duty of masters of vessels.

Certain passengers not to be landed until bond is given, &c. 1852, 279, § 1. 1852, 312, § 1. 11 Peters, 102. 7 Howard, 283. 4 Met., 282. 1872, 169, § 3.

SECT. 15. No insane, idiotic, deaf and dumb, blind, deformed, or maimed person, among said passengers, or alien who has before been a public charge within this state, shall be permitted to land until the master, owner, consignee, or agent of such vessel makes and delivers to said superintendent a bond to the Commonwealth for each of said persons, with satisfactory sureties in the sum of one thousand dollars, conditioned that such passengers shall not within ten years from the date thereof become a city, town, or state charge. . . . If any passenger arriving as aforesaid is so sick or destitute as to require relief, and the master refuses to report him, or if said master, owner, consignee, or agent refuses to give such bond, the superintendent may permit such passenger to be landed; and if the Commonwealth or any place is put to expense for his support, sickness, or burial, within ten years of the time he is so landed, the Commonwealth or such place may in any action of contract recover the amount of all such expenses of said master, owner, consignee, or agent, who shall also severally forfeit the sum of five hundred dollars for every passenger so landed.

Sick and destitute passengers may be landed without bond, &c.

State may recover for support.

Penalty for landing aliens except at port of destination; 1848, 313, § 9.

SECT. 20. If the master or commanding officer of a vessel lands an alien passenger at any place within this state other than that to which such vessel is destined, with intent to avoid the requirements of this chapter, he shall forfeit one hundred dollars for every passenger so landed.

or without complying with provisions of this chapter; 1848, 313, § 10.

SECT. 21. If the master or commanding officer of a vessel lands, or permits to be landed, in this state, any alien passenger, without complying with the provisions of this chapter, he and the owner or consignee of the vessel shall severally forfeit five hundred dollars for every passenger so landed.

for landing convicts, &c., from other states. R. S. 46, § 25.

SECT. 22. If a master or other person having charge of a vessel, therein brings to and lands, or suffers to be landed, within this state, a person convicted in any other state or in a foreign country of an infamous crime, or a crime for which he has been sentenced to transportation, knowing of such conviction, or having reason to suspect it, or a person of a notoriously dissolute, infamous, and abandoned life and character, knowing him to be such, he shall for every such offence forfeit a sum not exceeding five hundred dollars.

Overseers of poor, when to perform duties of superintendents. 1848, 313, § 8.

SECT. 24. The overseers of the poor in any place where there is no superintendent of alien passengers, or where such superintendent is unable to perform his duties by reason of absence or ill health, shall perform the duties and exercise the authority of superintendents; and shall in like manner render their accounts to the state treasurer, and pay over the money received, deducting therefrom a reasonable compensation for their services.

Persons bringing foreigners into state liable for support, &c., in certain cases.

SECT. 25. If a foreigner, brought into this state in the manner specified in section four, falls sick, or from any cause becomes a public charge within one year thereafter, the Commonwealth or any place incurring expenses for his support, sickness or burial, may in an action of contract recover the amount of such expenses of the corporation or party by whose means the person was brought into the state: *provided*, that the party so liable shall be notified of his liability in each case as soon as practicable, in order that such party may if so disposed provide means of support or removal.

[Statutes 1866, chap. 272.]

Parties bringing paupers into state liable for support in certain cases. Corporations bringing foreigners to labor to give bond for their support. G. S. c. 71. 1863, c. 240. § 6. 1866, c. 292. 1869, c. 251.

SECTION 1. The provisions of sections four and twenty-five of chapter seventy-one of the General Statutes are hereby extended and made applicable to any corporation or party by whose means any person, not having a settlement in this Commonwealth, is brought into the state.

SECT. 2. Any corporation which brings into this Commonwealth, or by whose means or at whose instigation any person is brought into the same, for the purpose of performing labor for such corporation, if such person has no settlement in this Commonwealth, shall give a bond to the Commonwealth, to be delivered to the superintendent of alien passengers, in a sum of three hundred dollars, conditioned that neither such person nor any one legally dependent on such person for support, shall within two years become a city, town or state charge.

[Statutes 1866, chap. 292.]

Provisions respecting alien passengers.

SECTION 1. The provisions of sections twelve and fourteen of chapter seventy-one of the General Statutes, shall apply to all vessels arriving at any port of this Commonwealth from any port or place without the limits of the United States, or which shall have stopped at any such port or place during their voyages.

[Statutes 1869, chap. 251.]

General agent to exercise supervision and enforce laws. G. S. c. 71. 1863, 240. 1866, c. 272, 292. 1879, c. 291.

SECTION 1. Vessels bringing passengers to any port in this Commonwealth shall be under the supervision of the general agent of state charities, acting as superintendent of alien passengers for the port of Boston, who shall enforce in regard to such vessels and the passengers brought therein all the provisions of law concerning the introduction of strangers and aliens by sea into this Commonwealth; and for this purpose the officers authorized by section eleven of chapter seventy-one of the General Statutes, shall be appointed and commissioned by the general agent of state charities, and shall be deemed his deputies, and each deputy shall receive a compensation for his services, to be fixed by said agent, such compensation not to exceed the amount of alien passenger money received by such deputy.

Appointment and compensation of deputies. G. S. 71, § 11.

Monthly reports to be made to the board, &c.

SECT. 2. The deputies shall, at the close of each month, make a detailed report to the board of state charities, through its general agent, giving the name of each vessel arriving, the number, names and description of the passengers brought, the numbers respectively for whom commutation was accepted or refused, and such other information in relation thereto as may be required by him; and they shall further give bond for the faithful performance of their duties, in such sum as he may require. The compensation of the said deputies shall be paid from the appropriation of the general agent, and all fees for commutation collected by them shall be paid over monthly to the said agent, who shall account for the same to the treasurer in the manner now provided by law.

Compensation and commutation fees.

General agent to institute prosecutions, &c. 1863, 240, § 2.

SECT. 3. The general agent shall institute prosecutions for the violations of any provisions of the laws concerning the introduction of aliens and strangers by sea into this Commonwealth, and for this purpose may employ counsel when necessary; but whenever such violation shall appear to him to have occurred without intent, he may commute the forfeiture for a sum not less than fifty dollars, the attorney-general advising thereto.

May commute forfeitures.

B. The Visitation and Reformation of Children.

[Statutes 1869, chap. 453.]

[This Act was modified, but not wholly repealed by 1870, c. 359.]

Appointment and jurisdiction of visiting agent. G. S. 71, § 47. G. S. 75, 76.

SECTION 1. The governor, with the advice and consent of the council, shall appoint an agent to visit all children maintained wholly or in part by the Commonwealth, or who have been indentured, given in adoption or placed in the charge of any family or person by the authorities of any state institution, or under any provision of this act.

Tenure of office, salary, assistants and expenses.

He shall hold his office for one year, subject to removal by the governor and council, and shall receive an annual salary of twenty-five hundred dollars; and, with the approval of the board of state charities, he may employ such assistance, and incur such expenses, as may be necessary for the discharge of his official duties.

General duties. 1879, c. 291, §§ 1, 3.

SECT. 2. It shall be his duty to visit the children aforesaid, or cause them to be visited, at least once in three months, to inquire into their treatment, their health and their associations, and especially to ascertain whether their legal rights have been invaded, and whether all contracts or stipulations made in their behalf have been duly observed, and to collect such other information respecting them as the board of state charities may direct: and, for this purpose, he shall have the right to hold private interviews with the children, whenever he may deem it advisable.

Disposal of children, procedure prescribed. G. S. 110, 111. 1863, 249.

SECT. 3. All applications to take any of the children above specified, by indenture, adoption or any other method fixed by law, shall be referred to the aforesaid agent, who shall investigate the character of each applicant, and the expediency of so disposing of the child applied for, and report the result to the board or magistrate having jurisdiction over the child, and no such child shall be indentured or otherwise disposed of until such report is received; and in case any child shall be placed in a home which the said agent may deem unsuitable, he shall forthwith report the facts to the board of state charities for their action thereon, and the governor and council may at any time annul any indenture by which such child may be held.

Indentures, when and how annulled.

Applications for commitment of a child, agent to be notified, &c. G. S. 75, 76. 1863, 240.

SECT. 4. Whenever application is made for the commitment of any child to any reformatory maintained by the Commonwealth, the magistrate before whom the hearing is to be held shall duly notify the visiting agent of the time and place of the hearing, by written notice mailed one week at least before the time of hearing, and directed to said agent at the state house, and the agent shall attend at said hearing in person or by deputy, in behalf of the child; and if it shall appear to the said magistrate that the interests of the child will be promoted by placing him in a suitable family, he may, instead of committing him to a reformatory, authorize the board of state charities to indenture the child during the whole or a portion of his minority, or to place him in such family. And the board of state charities is hereby authorized to provide for the maintenance of any child placed in a fam-

Child may be indentured or placed in a family home.

Board to provide

for maintenance of any child.

ily as aforesaid, at an expense not exceeding the average cost of the support of such child in any of the state reformatories.

Agent to seek out families, &c.

And it shall be the duty of said agent to seek out families willing and suitable to receive such children, and furnish the names and places of residence of the same to the boards or magistrates who are to provide for the commitment or indenture of a child under this act: provided, that the provisions of this section, so far as they require notice to the visiting agent, shall not apply to the superior court.

Provisions requiring notice, not applicable to superior court.

[Statutes 1870, chap. 359.]

Visiting agent board of state charities. 1863, c. 240. 1869, c. 453. 1872, c. 349. 1873, c. 377. Repealed by 1879, c. 291.

SECTION 1. [The governor, with the advice and consent of the council, shall appoint a visiting agent of the board of state charities, who shall hold his office for three years, unless sooner removed, and who shall receive an annual salary of twenty-five hundred dollars, and may employ such assistants and incur such expenses as said board may approve.]

To visit annually all children indentured by the state; G. S. 75, 76. 1863, c. 240. 1870, c. 92. 1871, c. 370. 1874, c. 371.

SECT. 2. Said agent or his assistant shall as often as once a year, visit by himself or an assistant all children maintained wholly or in part by the state, or who have been indentured or placed in charge of a person by any state institution, board, or officer of the Commonwealth, or under any provision of this act. He shall inquire into the condition of such children and make such other investigation in relation thereto as said board of state charities may prescribe. And for the purpose aforesaid, said agent or his assistant may have private interviews with such children at any time.

to report facts, if in his opinion children ought not to remain indentured. 1871, c. 370, § 2.

SECT. 3. When said agent is of opinion that a child so indentured or placed in charge of a person cannot, with advantage to the child, be longer so held, he shall report the facts to the institution, board or officer, by which such child was indentured, and said institution, board or officer may cancel the indenture or contract, by giving notice as provided in section one, chapter three hundred and two, acts of eighteen hundred and sixty-nine, and return such child to the institution from which indentured or taken; or, on application of such institution, board or officer, the board of state charities may transfer him or her to any other institution maintained by the Commonwealth for the support or reformation of children, or indenture him or her to some other person, or otherwise provide for his or her maintenance during minority, or for a less time. The cancellation of the indenture or contract shall not operate as a discharge of the minor under any sentence or order of commitment.

Board of state charities may transfer or indenture children. 1879, c. 291.

Agent to be notified before child is taken from state institution, and to re-

SECT. 4. No child shall be indentured, adopted or taken in charge of any person from a state institution until notice of an application therefor has been given to said agent, and his report, in writing, made after investigation into the propriety thereof, is filed with such insti-

tution. And all applications for the release or discharge of any children so indentured or placed in charge of persons, shall be given to said agent for his report, in like manner. And if any child is disposed of contrary to his report and recommendation, he shall report all the facts in the case to the board of state charities for its action.

port if disposed of contrary to his recommendation;

SECT. 5. Said agent shall seek out suitable persons who are willing to adopt, take charge of, educate and maintain children arrested for offences, committed to any state institution, abandoned or neglected, and give notice thereof to the institutions, boards, officers or persons having authority so to dispose of said children; and he shall from time to time make report to said board of state charities of his doings under this act.

to seek out suitable persons to adopt, &c., children committed to state institutions. 1871, c. 310. 1872, c. 311.

SECT. 6. [The duties of said agent as declared in section two of this act in relation to girls indentured, adopted or taken from the state industrial school for girls, shall be performed by a person or persons appointed by said agent, with the approval of the trustees of said school and paid out of the appropriation for said school.]

Repealed, 1872, c. 161.

SECT. 7. When a boy or girl, except in the county of Suffolk, is brought before a trial justice, police or municipal court, on complaint for any offence not punishable by imprisonment for life, except for an offence against a town or city by-law or ordinance, and, in said county of Suffolk, is so brought for any offence first described, but not now within the final jurisdiction of any police or municipal court therein, and it appears at or before the trial, that such boy or girl is under the age of sixteen years, the justice or court shall make an indorsement of the fact upon the original warrant, and the officer who served said warrant, or any other officer qualified to serve the same, shall take said boy or girl with said warrant and the complaint before the judge of the probate court, who shall have jurisdiction thereof in like manner as if originally brought before him. And in the county of Suffolk, all boys and girls under sixteen years of age, complained of for any offence before any police or municipal court, shall have the complaints against them heard and determined, by themselves, separate from the general and ordinary criminal business of said courts: in all such cases, the notice provided in section eight shall be given to the visiting agent, and they may be disposed of by the judge of said court in the manner provided in section ten, if deemed expedient.

Jurisdiction of children under sixteen years old committing certain offences transferred to judges of probate courts. G. S. 75, 76, 116, 120, 1871, c. 365. 1872, c. 68, 358.

Proceedings in Suffolk County. 1872, c. 358. 1874, c. 258.

SECT. 8. When a complaint against any boy or girl for any offence is made or pending before a judge of the probate court or a commissioner, notice in writing thereof shall be given to said agent, who, by himself or an assistant, shall have an opportunity to investigate the case, attend the trial and protect the interest of, or otherwise provide for such child. Said notice may be sent by mail

Agent to be notified of complaint before probate judges, &c. G. S. 75, 76.

to said agent, or he may waive the same or the service thereof.

Child arrested may be held or committed to jail, until time of trial, or bailed, &c. G. S. 170, § 36.

SECT. 9. A child arrested on any complaint referred to in the preceding sections may be held or committed to jail by the officer having said child in custody until the time appointed for the trial, unless admitted to bail as provided in section thirty-six, chapter one hundred and seventy of the General Statutes, and the judge of the probate court, as well as the magistrate named in said section, may admit to bail.

Judge may authorize board to indenture child upon request of agent. 1866, c. 209. See 1871, 365. 1872, 68, 358.

SECT. 10. The judge of the probate court or commissioner, before whom a child is brought on any complaint aforesaid, upon request of said agent may authorize the board of state charities to take and indenture, or place in charge of any person or in the state primary school, such child till he or she attains the age of twenty-one years, or for any less time. And said board may provide for the maintenance of any such child so indentured or placed in charge of a person, in whole or in part, at a cost to the state not exceeding the average cost of the support of children at the state primary school.

Disposition of boy, if convicted. G. S. 76. 1872. c. 68.

SECT. 11. When a boy is convicted by a judge of the probate court of any offence, unless disposed of as provided in section ten, he may be sentenced and committed to any institution established by authority of the laws of the Commonwealth for the reformation of juvenile offenders; or, if below the age of twelve years, to the state reform school; if above the age of fourteen years, to the Massachusetts nautical school; and if between those ages, to either of said schools, in like manner and subject to the same provisions of law as now apply to boys committed to said schools or institutions respectively, or in the discretion of the judge, to such other punishment as is provided for the offence.

Disposition of girl, if convicted. G. S. 75. 1863, c. 184. 1864, c. 290. 1873, c. 166.

SECT. 12. When a girl is convicted by a judge of the probate court of any offence, unless disposed of as provided in section ten, she may be sentenced and committed to the state industrial school for girls, in like manner and subject to the same provisions of law as now apply to girls committed to said school, or, in the discretion of the judge, to such other punishment as is provided for the offence.

Judges may receive complaints, issue warrants, &c., in any county, &c.

SECT. 13. Judges of the probate courts may receive complaints, issue warrants and hear cases against juvenile offenders referred to in this act; at such times or places, in or out of their respective counties, as convenience may require. And any judge of a probate court may act in any case for the judge of any other county, whether absent or not, when so requested.

[Statutes 1871, chap. 365.]

Jurisdiction of probate judges over juvenile of-

Section seven of chapter three hundred and fifty-nine of the acts of the year eighteen hundred and seventy, is hereby amended by striking out the word "sixteen" where it

appears, and substituting the word "seventeen;" and by adding the words "police, district and municipal courts and trial justices may issue warrants against persons under seventeen years of age charged with such offences, committed in any county other than Suffolk county." Warrants so issued shall be returnable before the judge of the probate court for the county in which the offence is alleged to have been committed, and the officer making the arrest shall take the person so arrested, with the warrant and complaint, before such judge of the probate court, who shall have jurisdiction thereof in like manner as if the complaint had been made before him.

Offenders enlarged. G. S. 75, 76. 1870, c. 359, § 7.

Warrants by justices, &c., to be returnable before probate judge. 1861, 200. 1872, 358.

Section ten of said chapter is hereby amended by inserting after the words, "state primary school," in the fifth line, the words, "or if the child prove unmanageable to transfer and commit to the state reform, nautical or industrial school, subject to such conditions of sex and age as are now defined by law for admission to said schools."

Children indentured may be transferred to reform school, &c. 1870, c. 359.

[Statutes 1876, chap. 121.]

SECT. 2. The board of state charities may discharge from custody any child committed to its care under the provisions of section ten of chapter three hundred and fifty-nine of the acts of the year eighteen hundred and seventy.

Discharge of children committed under 1870, 359, § 10.

STATE PRIMARY SCHOOL.

[Statutes 1866, chap. 209.]

SECTION 1. There shall be established at the state almshouse in Monson a state school for dependent and neglected children, which shall be known as the state primary school. So much of the land and buildings belonging to the state almshouse, as in the judgment of the board of state charities shall be necessary, shall be used for the purposes of the school, and the remainder shall be used for the purposes of a state almshouse. There shall be received as pupils such children as are now maintained and instructed in the state almshouses; and such children shall be maintained, taught, exercised and employed, as their health and condition shall require, but they shall not be considered as inmates of the almshouse, nor allowed to mingle with the inmates, nor shall they be designated as paupers.

School for dependent and neglected children. 1872, c. 45, 68. 1873, c. 262. G. S. 71, §§ 32-57.

What children shall be admitted.

SECT. 2. [Said school shall be under the charge of the superintendent and inspectors of the state almshouse at Monson, who shall prepare rules and regulations for the government of the school and the general management of its affairs; and such rules and regulations, when approved by the governor and council, and placed on record in the office of the secretary of the Commonwealth, shall be and remain in force, until altered or amended with the approval of the governor and council.

Charge and superintendence.

Rules and regulations. 1872, c. 282. Repealed by 1879, c. 291.

Officers and their pay.

[Sect. 3. All needful officers for said school shall be appointed and their compensation fixed by the superintendent, subject to the approval of the inspectors.]

Children to be transferred from the state almshouse. G. S. 71, 32, 57. G. S. 165, § 28.

Sect. 4. For the purpose of instruction and employment there shall be transferred to the state primary school from the state almshouses at Tewksbury and Bridgewater, from time to time, all such children as are of suitable condition of body and mind to receive instruction, and at the same time are likely to continue for a period of six months under the care of the state; and especially such as are orphans, or have been abandoned by their parents, or whose parents have been convicted of crime, or come within any of the descriptions of persons contained in the General Statutes, chapter one hundred and sixty-five, section twenty-eight.

Transfers, admissions and discharges. 1863, c. 240. 1879, c. 291.

Sect. 5. Such tranfers of children shall be made by the board of state charities, who shall have full power to make such other transfers of children as they may deem necessary, from the state almshouses; and the power of admission and discharge shall be vested in the said board of state charities, together with the other powers now vested in said board in relation to state paupers in almshouses and hospitals.

Examination of pupils in reform school, and manner of transfer to primary school prescribed. G. S. c. 76. 1863, c. 240. 1870, c. 359.

Sect. 6. It shall be the duty of the board of state charities, upon consultation with the trustees of the state reform school at Westborough, as often as once in three months, to examine into the sentences and conduct of the pupils in that institution; and when they shall find pupils there residing who have been committed for trivial offences, and do not appear to be depraved in character, or to need the restraints of imprisonment, the board of state charities shall furnish lists of such pupils to the governor, who may, under his warrant, direct the removal of such children to the state primary school at Monson, and such removal shall suspend their sentence of confinement at Westborough, during the good behavior of such pupils.

Age of pupils received or retained.

Sect. 7. No child above the age of sixteen years shall be received or retained in the state primary school, except by special vote of the board of state charities, on the representation of the superintendent that there are urgent reasons for such admission or retention; but it shall be the duty of the superintendent, inspectors and other officers to use all diligence to provide suitable places in good families for all such pupils as have received an elementary education; and any other pupils may be placed in good families, on condition that their education shall be provided for in the public schools of the town or city where they may reside.

Family homes to be provided. 1863, c. 240. 1869, c. 453. 1870, c. 359.

Powers and duties of board of charities and inspectors of Monson almshouse.

Sect. 8. Except as already limited in this act, the board of state charities, and the inspectors of the state almshouse at Monson, shall have and exercise all the powers, and be subject to all the duties, in regard to the pupils of the state primary school, which now belong to

or may hereafter be given to them in regard to the inmates of the state almshouse at Monson; and nothing contained in this act shall affect any powers or privileges heretofore granted to cities or towns, or the overseers of the poor thereof, by acts specially relating to the state almshouses, and the sending of state paupers thereto.

Powers of cities and towns not affected. 1879, c. 291.

Sect. 9. The expenses of the school shall be paid from the appropriation for the expenses of the almshouse, and no officer now receiving a salary from the Commonwealth shall be entitled to any increase of salary in consequence of this act; but such officers and employés as the superintendent and inspectors shall designate, shall be employed to perform services both in the school and in the almshouse.

Expenses, how paid, &c.

[Statutes 1876, chap. 121.]

Whenever a child, having a settlement in this Commonwealth, is committed to the state primary school under the provisions of section ten of chapter three hundred and fifty-nine of the acts of the year eighteen hundred and seventy, the general agent of state charities shall give written notice of such commitment to the overseers of the poor of the place of settlement; and said overseers, with the assent of the board of state charities, may remove such child to said place of settlement, and said place of settlement shall pay one dollar per week from the date of the notice aforesaid, for the support of such child in said school, which sum shall be paid to, or recovered by, the treasurer of the Commonwealth.

When a child is committed to the state primary school under 1870, 359, § 10, notice thereof is to be given to the overseers of poor, who may remove the child, &c. Pay for support of child.

Opinion of the Attorney-General.

Attorney-General's Office,
Boston, Oct. 30, 1875.

Sir, — In answer to your inquiry, forwarded to me by his Excellency the Governor, of Oct. 20, I am of the opinion that: —

The only children who are under the control of the Inspectors and Superintendent of the State Primary School are the pupils of that school.

The pupils of that school are those children who have been admitted by the Board of State Charities under Stat. 1866, chap. 209, sects. 4 and 5, or by the concurrent action of that Board, and of his Excellency the Governor, under sects. 5 and 6 of the same act. These children can become pupils of the school for the sole purpose of being maintained, taught, exercised, and employed (Stat. 1866, chap. 209, sect. 1). They can remain pupils of the school for no other purpose. It is made the duty of the superintendent, and of the other officers, to provide places in families for pupils when discharged from the school (Stat. 1866, chap. 209, sect. 7.) The Board of State Charities alone can discharge a pupil from the school (sect. 5, same act). The Inspectors and the Board of the State Charities together may indenture pupils (Stat. 1866, chap. 209, sect. 8; Gen. Stats., chap. 71, sect. 33; Gen. Stats., chap. 111, sect. 4): consequently no children can be indentured or placed in a family without having been discharged by the Board of State Charities. A child so indentured and so placed passes from the control of both the Board and of the Inspectors.

In answer to your first question, I am of opinion that children

so indentured, or so placed, remain in the charge and under the control of neither the Board of State Charities nor of the Inspector.

In answer to your second question, I am of opinion that the power of the State Board of State Charities to discharge, under Stat. 1866, chap. 209, sect. 5, extends to pupils who are pupils of the State Primary School, and under Stats. 1863, chap. 240, sect. 4, to all inmates of all charitable institutions and lunatic hospitals, and is confined to such pupils and to such inmates. Pupils who have been indentured or placed must have ceased to be members of either of these classes, and cannot be discharged from those positions by that Board.

As to your third question, inasmuch as the discharge of the child from the school is an indispensable requisite of its having been indentured or placed, I am of opinion that that discharge cannot remit the duty of the visiting agent as to those children under Stat. 1870, chap. 359, sect. 2. The object of those visits will become manifest by a reference to Gen. Stats., chap. 111, sect. 9; and Stat. 1866, chap. 209, sect. 8, as to indentured children, and to Stat. 1866, sect. 4 and 5, as to children placed.

Yours respectfully,

CHAS. R. TRAIN.

STATE REFORM SCHOOL.

[G. S. chap. 76.]

Government of school vested in seven trustees; appointment, tenure of office, compensation. 1879, c. 291.

SECTION 1. The government of the state reform school, at Westborough, shall be vested in a board of seven trustees, appointed and commissioned by the governor, with the advice and consent of the council, subject to removal only for sufficient cause. The trustees now in office shall continue to hold their offices until the terms thereof expire according to the provisions of this section.

On the first Wednesday of February in each year the terms of office of the two senior members, as they stand arranged on the list of their appointments, shall terminate, and the names of the persons appointed to fill the vacancies shall be placed at the bottom of the list. Other vacancies may at any time be filled, and the names of the persons appointed shall be substituted in the list for the remainder of the vacant terms. Any person whose term of office expires may be re-appointed. The trustees shall receive no compensation for their services, but shall be allowed all expenses incurred by them in the discharge of their duties.

Trustees to be a corporation.

SECT. 2. The trustees shall be a corporation by the name of the trustees of the state reform school, for the purpose of taking and holding, to themselves and their successors in trust for the Commonwealth, any grant or devise of lands, and any donation or bequest of money, or other personal property made for the use of said institution, and for the purpose of preserving and investing the proceeds thereof in good securities, with all powers necessary to carry said purposes into effect.

Control of buildings, &c.

SECT. 3. They shall have the control of the buildings erected for the purposes of the institution at Westborough, and the lands connected therewith.

Trustees, general powers and duties of. 1863, c. 240. 1866, c. 198, 274. 1869, c. 453. 1870, c. 359. 1871, c. 365. 1872, c. 68, 282, 358.

SECT. 4. They shall take charge of the general interests of the institution; see that its affairs are conducted in accordance with the requirements of the legislature, and such by-laws as the board may from time to time adopt, and that strict discipline is maintained therein; provide employment for the inmates and bind them out, discharge or remand them as herein provided; appoint a superintendent, steward, teacher or teachers, and such other officers as in their judgment the wants of the institution may require, and to prescribe their duties; exercise a vigilant supervision over the institution, its officers and inmates; remove such officers at pleasure and appoint others in their stead; and determine the salaries to be paid to the officers, subject, in all cases, to the approval of the governor and council. The by-laws may be amended by the assent of five trustees at a legal meeting; but no alteration shall be valid until approved by the governor and council.

Trustees, duties of, as to instruction, discipline, &c.;

SECT. 5. They shall cause the boys under their charge to be instructed in piety and morality, and in such branches of useful knowledge as are adapted to their age and capacity; and in some regular course of labor, either mechanical, manufacturing, agricultural, or horticultural, or a combination of these as is best suited to their age, strength, disposition and capacity; and in such other arts and trades as may seem best adapted to secure the reformation, amendment, and future benefit of the boys.

may bind out boys, &c. 1869, c. 302, 453. 1870, c. 359. 1879, c. 291.

SECT. 6. They may bind out boys committed to the school, as apprentices or servants, until they become twenty-one years of age, or for any less term; and the trustees, or master or mistress, apprentice or servant, shall respectively have the rights and privileges, and be subject to the duties set forth in chapter one hundred and eleven, in the same manner as if such binding or apprenticing were made by overseers of the poor. In binding out boys, they shall have scrupulous regard to the religious and moral character of those to whom they are to be bound, that they may secure to the boys the benefit of a good example and wholesome instruction, and the sure means of improvement in virtue and knowledge, and thus the opportunity of becoming intelligent, moral, useful and happy citizens.

Trustees to visit school.

SECT. 7. One or more of the trustees shall visit the school at least once in every two weeks, at which time the boys shall be examined in the school-room and workshop, and the register shall be inspected. A record shall be kept of these visits in the books of the superintendent.

Reports to be made; treasurer's account.

Once in every three months the school in all its departments shall be thoroughly examined by a majority of the trustees, and a report thereof made to the board on or before the fifteenth day of October in each year. An abstract of these quarterly reports shall be prepared, which, together with a full report by the superintendent,

and a list of the salaried officers and their salaries, and in a tabular form, under the heads specified in section eleven of chapter five, the value of the stock and supplies shall be laid before the governor and council for the information of the legislature. The treasurer shall also submit, at the same time, an accurate detailed account of the receipts and expenditures for the year terminating on the last day of the preceding month.

Superintendent, powers and duties of; 1872, c. 282.

SECT. 8. The superintendent, with such subordinate officers as the trustees may appoint, shall have the charge and custody of the boys. He shall be a constant resident at the institution, and shall discipline, govern, instruct, employ, and use his best endeavors to reform the inmates, in such manner as while preserving their health will secure the formation, as far as as possible of moral, religious and industrious habits, and regular thorough progress and improvement in their studies, trades and employments.

to have charge of property, give bonds, keep books, &c.

SECT. 9. He shall, before entering upon his duties, give a bond to the Commonwealth, with sureties satisfactory to the governor and council, in the sum of two thousand dollars, conditioned that he shall faithfully perform all his duties and account for all money received by him as superintendent, which bond shall be filed in the office of the treasurer of the Commonwealth. He shall have charge of all the property of the institution within the precincts thereof. He shall keep, in suitable books, complete accounts of all his receipts and expenditures, and of all property intrusted to him, showing the income and expenses of the institution; and he shall account to the treasurer in such manner as the trustees may require for all money received by him. His books and all documents relating to the school shall, at all times, be open to the inspection of the trustees, who shall at least once in every six months carefully examine the books and accounts, and the vouchers and documents connected therewith, and make a record thereof. He shall keep a register, containing the name, age, and circumstances connected with the early history of each boy, and shall add such facts as come to his knowledge relating to his history while at the institution and after leaving it.

Superintendent to make contracts, &c.

SECT. 10. He shall in writing, make all contracts on account of the institution, with approval of the trustees, if their by-laws require it; and he or his successor may sue or be sued thereon to final judgment and execution.

Suits.

No suit shall abate by reason of the office of superintendent becoming vacant, but any successor in office may take upon himself the prosecution or defence thereof, and upon motion of the adverse party and notice he shall be required so to do.

Treasurer, appointment and bond of. 1872, c. 282.

SECT. 11. There shall be a treasurer appointed by the governor and council for three years, unless sooner removed for sufficient cause, who shall, before entering upon the discharge of his duties, give a bond to the Com-

monwealth, with sureties satisfactory to the governor and council, in the sum of three thousand dollars, conditioned that he shall faithfully account for all money received by him as treasurer; which bond shall be filed in the office of the treasurer of the Commonwealth.

Commitments to school. Age fixed at 17 by Acts 1872, c. 68, page 55 of Manual. Proceedings when complaint is made. 1861, c. 200. 1863, c. 139, 199. 1864, c. 202. 1869, c. 453. 1870, c. 359.

SECT. 17. When a boy under the age of sixteen years is brought by a constable, police officer, or other inhabitant of this state, before a judge of the probate court, or superior court, upon complaint that he has committed an offence which may be punished by imprisonment, other than imprisonment for life, the judge shall issue a summons to the father of the boy, if he is living and resident within the place where the boy was found, and if not, then to his mother if she is living and so resident; and if there is no such father or mother, to the lawful guardian of said boy, if any there is so resident, or if not, to the person with whom, according to his own statement and such testimony as shall be received, he resides; and if there is no person with whom he statedly resides, the judge may appoint some suitable person to act in his behalf; requiring him or her to appear at a time and place stated in the summons, to show cause, if any there is, why said boy shall not be committed to the state reform school or the nautical branch thereof. And the judge shall also cause notice of the pendency of the complaint to be given to the mayor of the city, or to one of the selectmen of the town where the boy resides.

Same subject. 1862, c. 9. 1864, c. 202. 1869, c. 453.

SECT. 18. At the time mentioned in the summons, the judge shall proceed to examine the boy and any party appearing in answer to the summons, and to take such testimony in relation to the case as may be produced. If the allegations are proved, and it appears that the boy is a suitable subject for said school, and that his moral welfare and the good of society require that he should be sent thereto for instruction, employment, or reformation, he shall commit the boy, if below the age of fourteen years, to the state reform school or the nautical branch thereof, as he deems best, and if above that age to the nautical branch of said school, by a warrant in substance as follows: —

Form of warrant.

To (A, B) one of the constables (or police officers) of the city (or town) of . . . You are hereby commanded to take charge of C, D, a boy under the age of sixteen years, to wit, of the age of as near as can be ascertained, who at the time of his arrest resided in and who has been proved to me to be a suitable subject for the state reform school (or the nautical branch of the state reform school) and a proper object of its care, discipline and instructions, and deliver said boy without delay to the superintendent of said school, or other person in charge thereof, at the place where the same is established. And for so doing this shall be your sufficient warrant.

Dated this day of , 18 , at , (in the county of , in the Commonwealth of Massachusetts).

But no variance from said form shall be deemed mate-

rial, if it sufficiently appears, upon the face thereof, that the boy is committed by the judge in the exercise of the powers given to him by this chapter.

Judge to certify residence, age, &c.

SECT. 19. The judge shall certify in the warrant the place in which the boy resided at the time of his arrest, and such certificate for the purposes of this chapter shall be conclusive evidence of his residence. He shall also state therein the age of the boy, as near as he can ascertain. Accompanying the warrant the judge shall transmit to the superintendent, by the officer serving it, a statement of the substance of the complaint and testimony given in the case, together with such other particulars concerning the boy as the judge is able to ascertain.

Service of warrant, &c. 1862, c. 9. 1863, c. 139.

SECT. 20. The warrant shall be executed by a constable or police officer of the place where the case was heard. Any summons to appear before a judge as aforesaid shall be served by a constable or police officer, by delivering an attested copy of the same personally to the party to whom it is addressed, or leaving it with some person of sufficient age at the place of residence or business of such party; and said constable or police officer shall immediately make return to the same judge of the time and manner of such service.

Second commitment. 1863, c. 199.

SECT. 22. If a boy previously committed to the school is again brought before any judge under the provisions of this chapter, the judge may examine the case and issue his warrant for committing him to either branch of the school without issuing the summons required by section seventeen.

Unfit subjects may be held for trial in superior court. 1869, c. 453.

SECT. 23. If the judge is of opinion that a boy brought before him is guilty, and is not a fit subject for either branch of the school, he shall, if the offence charged is one within the jurisdiction of police courts, sentence him to such punishment as is provided by law for the offence, otherwise he shall bind him over to appear before the superior court for the same county, as police courts may do in like cases.

Appeal, &c.

SECT. 24. Any boy ordered to be committed to either branch of the school, or convicted and sentenced as aforesaid, may appeal to the superior court; and the appeal shall be had, entered, tried, and determined, in like manner and subject to like provisions as appeals from justices of the peace in criminal cases.

Courts may sentence boys to school, &c. Age, &c. 1872, c. 68.

SECT. 26. When a boy under the age of sixteen years is convicted in the supreme judicial or superior court of any offence which may be punished by imprisonment other than imprisonment for life, the court may sentence him, if below the age of fourteen years, to the state reform school or the nautical branch thereof, as it deems best, and if above that age to the nautical branch of said school, or in either case to such punishment as is otherwise provided by law. Before passing such sentence the court shall cause notice of the pendency of the case to be

Notice before sentence. 1864, c. 202.

given to the mayor of the city, or one of the selectmen of the town where the boy resided at the time of his arrest. The provisions of section nineteen shall apply to commitments under this section.

Term of commitment.

SECT. 27. Any boy committed to the state reform school, or the nautical branch thereof, shall be there kept, disciplined, instructed, employed, and governed, under the direction of the trustees, until he arrives at the age of twenty-one years, or is bound out, or discharged as reformed, or otherwise legally discharged. The discharge of a boy as reformed or his being sent on a voyage at sea, or arriving at the age of twenty-one years, shall be a complete release from all penalties, and disabilities created by the sentence.

Discharge, &c.

[Statutes 1872, chap. 68.]

Sentences up to the age of seventeen. 1870, c. 359. 1871, c. 365.

SECT. 5. Boys convicted of offences for which they may be sentenced to the state reform school, unless otherwise disposed of as provided by law, may, if between the ages of seven and seventeen years, be sentenced to the said institution, or to such other punishment as is provided for the offence.

Board of state charities may transfer reform school boys to primary school and back again. 1863, c. 240. 1879, c. 291.

SECT. 6. On application of any three of the trustees of the state reform school, the board of state charities may cause any boys committed to said school to be transferred, with the mittimus, to the state primary school, there to be held upon said mittimus till the term of sentence expires, unless sooner discharged, in the manner now provided for discharge from the state primary school; and the order of removal, signed by the secretary of the board of state charities, may be executed by the superintendent of the said state reform school, by the general agent of the board of state charities, or one of his deputies, by any sheriff, deputy sheriff, any constable of the Commonwealth, or other constable, or any police officer; and the said board, may, upon application of the trustees of said primary school, at any time in its discretion, cause said boys, so transferred under its order, to be returned to the state reform school, there to be held, as if no such transfer had been made.

[Statutes 1877, chap. 184.]

Counsel may be assigned for inmates of reform schools, on trial for criminal offences, &c. G. S. 76. Inmates may be summoned and brought into court as witnesses.

Inmates of any of the reform schools now existing, or which may hereafter be established in this Commonwealth, who are sent for trial to the criminal courts for offences alleged to have been committed in such institutions, may have counsel for their defence assigned by any judge of the court wherein they are to be tried; and any judge of said court shall, upon application, order the superintendent or other officer in charge of the institution wherein such offence is alleged to have been committed, to produce at the trial such inmates of said institution as the counsel assigned to the prisoner shall certify in writing,

in his opinion are, or as the judge in the absence of counsel shall deem to be, necessary or material witnesses for the defence; and such superintendent or other officer shall obey said order, having due regard to the custody, control and safe return of such inmates.

[Statutes 1877, chap. 233.]

Corporal punishment only permitted under rules prescribed by trustees. G. S. 76.

SECTION 1. Corporal punishment shall only be permitted in the Westborough reform school under such rules and regulations and by such modes as shall be prescribed by the trustees. No such punishment shall be inflicted, except by the direction of the superintendent or assistant superintendent in charge, to whom the offence shall be reported, and who shall designate the nature and extent of punishment to be inflicted.

Record to be made and presented to trustees.

SECT. 2. In every case of such punishment, a record of the offence and the mode and extent of the punishment shall be made and presented to the trustees at their next meeting.

STATE INDUSTRIAL SCHOOL.

[General Statutes, chap. 75.]

Government of school vested in seven trustees. How appointed; tenure of office; compensation. 1863, c. 240. 1868, c. 153. 1873, c. 166. 1879, c. 291.

SECTION 1. The government of the state industrial school for girls shall be vested in a board of seven trustees appointed and commissioned by the governor, with the advice and consent of the council, subject to removal only for sufficient cause. The trustees now in office shall continue to hold their offices until the terms thereof expire according to the provisions of this section. On the first Wednesday of February in each year the terms of office of the two senior members, as they stand arranged on the list of their appointments, shall terminate, and the names of the persons appointed to fill the vacancies shall be placed at the bottom of the list. Other vacancies may at any time be filled, and the names of the persons appointed shall be substituted, in the list, for the remainder of the vacant terms. The trustees shall receive no compensation for their services, but shall be allowed all expenses incurred by them in the discharge of their duties.

Duty of trustees, &c. By-laws. 1863, c. 184. 1864, c. 290. 1869, c. 453. 1870, c. 359. 1871, c. 365. 1872, c. 282.

SECT. 2. The board shall take charge of the general interests of the institution, see that its affairs are conducted in accordance with the requirements of the legislature, and such by-laws as the board may adopt, and that strict discipline is maintained therein; provide employment for the inmates, and bind out, discharge or remand them, as is hereinafter provided; exercise a vigilant supervision over the institution, its officers, and inmates; appoint a superintendent and chaplain, and such matrons, assistants, teachers, and other officers, as in its judgment the wants of the institution may require, and prescribe their duties; remove them at pleasure and appoint others in their stead; and determine the salaries to be paid to

the officers, subject in all cases to the approval of the governor and council. The by-laws may be amended by the consent of five members of the board at a legal meeting; but no alteration shall be valid until approved by the governor and council.

Treasurer, appointment and bond of; 1865, c. 256. 1872, c. 282. 1879, c. 291.

SECT. 3. There shall be a treasurer appointed by the governor and council, who shall before he enters upon the discharge of his duties give a bond to the Commonwealth, with sureties satisfactory to the governor and council, in the sum of three thousand dollars, conditioned that he shall faithfully account for all money received by him as treasurer; which bond when approved shall be filed in the office of the treasurer of the Commonwealth.

to hold and invest legacies, &c.

SECT. 4. The treasurer shall receive, hold and invest, for the benefit of the school, all legacies, devises, and donations, to or on account of the school, subject to such regulations as may be established from time to time by the trustees.

Commissioners to be appointed, who, with judges of probate, shall have jurisdiction under this chapter.

SECT. 5. The governor with the advice and consent of the council, upon request of the mayor and aldermen, selectmen, or overseers of the poor of any city or town, shall appoint and commission, in the same manner as justices of the peace are appointed and commissioned, one or more suitable persons residing in such city or town, who shall have authority therein to hear and determine complaints and make commitments under this chapter; and judges of the probate courts shall have like authority within their respective counties.

Girls between seven and sixteen may be committed; arrest, summons to parents, &c. 1861, c. 200. 1863, c. 199. 1872, c. 358. 1874, c. 258.

SECT. 6. When a girl between the ages of seven and sixteen years is brought by a constable, police officer or other inhabitant of this state, before such judge or commissioner, upon complaint that she has committed an offence punishable by fine or imprisonment, other than by imprisonment for life, or that she is leading an idle, vagrant, or vicious life, or has been found in any street, highway, or public place, in circumstances of want and suffering, or of neglect, exposure or abandonment, or of beggary, the judge or commissioner shall issue a summons to the father of said girl, if he is living and resident within the place where she was found, and if not, then to her mother if she is living and so resident, and if there is no such father or mother, to the lawful guardian of said girl, if any there is so resident, or if not, to the person with whom according to her own statement and such testimony as shall be received she resides: and if there is no person with whom she statedly resides, the judge or commissioner may appoint some suitable person to act in her behalf, requiring him or her to appear at a time and place stated in the summons, to show cause, if any there is, why said girl shall not be committed to said institution.

Examination, trial, commitment.

SECT. 7. At the time mentioned in the summons, the judge or commissioner shall proceed to examine the girl and any party appearing in answer to the summons, and

1861, c. 116. 1862, c. 9. 1864, c. 290.

to take such testimony in relation to the case as may be produced. If the allegations are proved, and it appears that the girl is a suitable subject for said institution, and that her moral welfare and the good of society require that she should be sent thereto for instruction, employment, or reformation, he shall commit her by warrant in substance as follows: —

Form of warrant.

To (A, B,) one of the constables (or police officer) of the city (or town) of . You are hereby commanded to take charge of C, D, a girl between the ages of seven and sixteen years, who has been proved to me to be a suitable object for the state industrial school for girls, and a proper subject for its care, discipline, and instruction, and deliver said girl, without delay, to the superintendent of said school, or other person in charge thereof, at the place where the same is established. And for so doing this shall be your sufficient warrant.

Dated this day of 18 at (in the county of , in the Commonwealth of Massachusetts).

Variance from form, when not material.

But no variance from said form shall be deemed material, if it sufficiently appears upon the face thereof that the girl is committed by the magistrate in the exercise of the powers given to him by this chapter. The warrant shall be executed by a constable or police officer of the place where the case is heard. Accompanying the warrant, the magistrate shall transmit to the superintendent, by the officer serving it, a statement of the substance of the complaint and testimony given in the case.

Service of summons.

Sect. 8. Summonses to appear before a judge or commissioner as aforesaid, shall be served by a constable, or police officer, by delivering the same personally to the party to whom it is addressed, or leaving it with some person of sufficient age at the place of residence or business of such party; and said constable, or police officer, shall immediately make return to the same magistrate of the time and manner of such service.

Second commitment may be made without summons to parents. 1863, c. 199.

Sect. 10. If a girl previously committed to the school is brought before a judge or commissioner upon any allegation set forth in section six, he may examine the case and issue his warrant for committing her to the school without having issued the summons required in said section.

Appeal allowed.

Sect. 12. Any girl ordered to be committed to the school may appeal from such order in the manner provided in respect to appeals from trial justices. And the case shall be entered, tried, and finally determined, in the court to which the appeal is made.

Girls to be kept until bound out, &c. 1863, c. 184. 1864, c. 290. 1866, c. 198.

Sect. 13. Any girl committed to the school shall there be kept, disciplined, instructed, employed, and governed, under the direction of the trustees, until she is bound out, or arrives at the age of eighteen years, or is otherwise legally discharged.

Trustees may discharge girls;

Sect. 14. The trustees shall discharge and return to her parents, guardian, or protector, any girl who, in their judgment, ought for any cause to be removed from the

school. And in such case the trustees shall make an entry upon their records of her name, the party to whom she was returned, and the date when she left the school, together with a statement of the reasons for her discharge; a copy of which record, signed by their secretary, they shall forthwith transmit to the judge or commissioner, by whom the girl was committed.

may bind them out, &c. 1869, c. 453. 1870, c. 359.

SECT. 15. The trustees may bind out as an apprentice or servant any girl committed to their charge, for a term not longer than until she arrives at the age of eighteen years; and the master to whom the girl is bound shall, by the terms of the indenture, be required to report to the trustees as often as once in every six months, her conduct and behavior, and whether she is still living under his care, and if not where she is. And the trustees, or master or mistress, apprentice or servant, shall respectively have all the rights and privileges, and be subject to all the duties set fourth in chapter one hundred and eleven, in the same manner as if said binding or apprenticing were made by overseers of the poor.

Indenture of apprenticeship not to be assigned, except, &c.; may be cancelled. 1869, c. 453. 1870, c. 359.

SECT. 16. A person receiving an apprentice under the provisions of this chapter, shall not assign or transfer the indenture of apprenticeship, nor let out her services for any period, without the consent in writing of the trustees. If the master for any cause desires to be relieved from the contract, the trustees, upon application, may in their discretion cancel the indenture and resume the charge and management of the girl, and shall have the same power and authority in regard to her as before the indenture was made.

Discharge of girl when master is guilty of cruelty, &c. 1869, c. 453. 1870, c. 359.

SECT. 17. If a master is guilty of cruelty or misusage toward a girl so bound to service, or of any violation of the terms of the indenture, the girl or trustees may make complaint to a judge or commissioner aforesaid, who shall summon the parties before him, and examine into the complaint; and if it appears to be well founded, he shall by certificate under his hand discharge the girl from all obligations of future service, and restore her to the school to be managed as before her indenture.

Assignment of indenture upon death of master. 1869, c. 453. 1870, c. 359.

SECT. 18. Upon the death of the master to whom a girl is so bound to service, his executor or administrator, with the consent of the girl in writing, acknowledged by her and approved by the trustees, may assign the indenture to some other person; which assignment shall transfer to and vest in the assignee all rights, and subject him to all responsibilities of the original master.

Trustees to be guardians of girls so bound out. 1863, c. 184. 1869, c. 453. 1870, c. 359.

SECT. 19. The trustees shall be the guardians of every girl so bound or held for service, shall take care that the terms of the contract are faithfully fulfilled, and that she is properly treated; and they shall especially inquire into the treatment of every such girl and cause any grievance to be redressed.

SECT. 20. They shall cause the girls under their charge

Instruction, &c., of girls; selection of masters, when binding out girls. 1866, c. 198.

to be instructed in piety and morality, and in such branches of useful knowledge as are adapted to their age and capacity, and in some regular course of labor, either mechanical, manufacturing, or horticultural, or a combination of these, and especially in such domestic and household labor and duties as are best suited to their age, strength, disposition, and capacity and in such other arts, trades, and employments, as may seem to the trustees best adapted to secure their reformation, amendment, and future benefit. In binding out girls they shall have scrupulous regard to the religious and moral character of those to whom it is proposed to bind them, that they may secure to the girls the benefit of good example and wholesome instruction and the best means of improvement in virtue and knowledge, and the opportunity of becoming intelligent, moral, useful, and happy women.

Duties of superintendent; 1868, c. 153. 1872, c. 282.

SECT. 21. The superintendent, with such subordinate officers as the trustees may appoint, shall have the general charge and custody of the girls. He shall be a constant resident at the school, and under the direction of the trustees shall discipline, govern, instruct, and employ, and use his best endeavors to reform, the inmates in such manner as shall, while preserving their health, and promoting the proper development of their physical system, secure the formation, as far as possible, of moral, religious, and industrious habits, and regular thorough progress and improvement in their studies, trades, and employments.

bond, accounts, &c., of.

SECT. 22. He shall, before he enters upon the duties of his office, give a bond to the Commonwealth, with sureties satisfactory to the governor and council, in the sum of two thousand dollars, conditioned that he shall faithfully perform all his duties, and account for all moneys received by him as superintendent; which bond, when approved, shall be filed in the office of the treasurer of the Commonwealth. He shall have charge of all the property pertaining to the school within the precincts thereof, and under the direction of the trustees shall make purchases of books, with the income and profits, and according to the terms of the donation of Henry B. Rogers. He shall keep in suitable books complete accounts of all his receipts and expenditures, and of all property intrusted to him, showing the income and expenses of the institution; and shall account to the treasurer in such manner as the trustees may require for all money received by him. His books, accounts, and documents, relating to the school, shall at all times be open to the inspection of the trustees, who shall at least once in every six months carefully examine the same, and the vouchers and documents connected therewith, and make a record of the result of such examination. He shall keep a register containing the name and age of each girl, and as far as practicable the circumstances connected

Register of girls to be kept.

with her history to the time of her admission to the school; and he shall add thereto such facts as may come to his knowledge, relating to her history, while at the institution, and after leaving it.

Superintendent to make all contracts in writing.

Suits on.

SECT. 23. All contracts on account of the institution shall be made by the superintendent in writing, and approved by the trustees, if their by-laws require it; and the superintendent, or his successor, may sue or be sued thereon to final judgment and execution. No suit shall abate by reason of the office of superintendent becoming vacant, but any successor in office may take upon himself the prosecution or defence thereof; and upon motion of the adverse party and notice, he shall be required to do so.

Examination of school.

Records, reports, treasurer's accounts: 1868, c. 153. 1873, c. 166.

SECT. 25. One or more of the trustees shall visit the school at least once in every two weeks, at which time the girls shall be examined in the school-rooms and workshops, and the register inspected. A record shall be kept of these visits in the books of the superintendent. Once in every three months, the school in all its departments shall be thoroughly examined by a majority of the trustees, and a report thereof made to the board. On or before the fifteenth day of October in each year an abstract of the quarterly reports shall be prepared, which, together with a full report by the superintendent, and a list of the salaried officers and their salaries, and, in a tabular form under the heads specified in section eleven of chapter five, the full value of the stock and supplies, shall be laid before the governor and council for the information of the legislature. The treasurer shall also submit at the same time an accurate detailed account of the receipts and expenditures for the year terminating on the last day of the preceding month.

Trustees may expend money for houses, &c.; number not to exceed six.

SECT. 26. The trustees may expend any money given for the purpose, in erecting houses or other buildings on the land of the state at Lancaster, for increasing the accommodation of the school, plans therefor being first approved by the governor and council; but the whole number of such houses shall not exceed six.

[Statutes 1863, chap. 184.]

Girls in the industrial school may be retained till of age of twenty-one years. G. S. 75, § 13.

SECTION 1. The governor and council, upon application of the trustees of the industrial school for girls at Lancaster, may extend the time during which such girls may be retained within the institution for further discipline and instruction, until they are twenty-one years old; but nothing in this act shall prevent a discharge from the institution between the age of eighteen and twenty-one years, if the trustees shall so determine.

When discharged under that age, trustees to be their guardians.

SECT. 2. In all cases where girls are discharged from said institution under twenty-one years of age, and have no parents or guardians, the trustees shall act as guardians for said girls, with all the power and authority provided in chapter one hundred and nine of the General Statutes.

[Statutes 1864, chap. 290.]

Girls to be committed till twenty-one years of age. G. S. 75, § 13. 1863, c. 184.

SECTION 1. All commitments to the state industrial school for girls shall hereafter be until the age of twenty-one years, or until otherwise discharged; and all the powers now by law given in relation to the government and control of inmates of said school, till they arrive at the age of eighteen years, shall extend to their arrival at the age of twenty-one years: *provided*, that any girl serving her time under indentures agreeably to the seventy-fifth chapter of the General Statutes shall be discharged from the school on her arrival at the age of eighteen years.

Serving time under indenture to be discharged at eighteen. G. S. 75.

SECT. 2. The trustees of said institution may retain therein, until the age of twenty-one years, any person heretofore sentenced to said institution if said person consents thereto in writing.

Girls now in school.

[Stat. 1872, chap. 358.]

Maximum age for commitments to girls' industrial school.

SECT. 4. Girls between the ages of seven and seventeen years, convicted of offences, or found in circumstances described in section six of chapter seventy-five of the General Statutes, may be committed to the state industrial school for girls.

OPINION OF THE ATTORNEY-GENERAL.

ATTORNEY-GENERAL'S OFFICE,
BOSTON, Nov. 19, 1877.

To his Excellency the Governor.

SIR, — In answer to your communication of the 16th inst., enclosing a letter to your Excellency from the visiting agent of the Board of State Charities dated Nov. 13, I have the honor to submit the following reply: —

I am clearly of opinion that a girl between the ages of seven and seventeen years, convicted of any offence named in Gen. Stats., chap. 165, sect. 28 or sect 35, may be sent to the Industrial School as heretofore, and that Stat. 1874, chap. 385, does not apply to such females, — to girls between seven and seventeen years of age.

I am, very respectfully, your obedient servant,

[Signed] CHARLES R. TRAIN.

[Stat. 1877, chap. 211.]

Sect. 6. Trial justices shall have and exercise within their respective counties all the powers, authority and jurisdiction that trial justices of juvenile offenders now have; and hereafter no trial justice of juvenile offenders, not being a trial justice or judge of a police district or municipal court, or a judge of probate and insolvency, shall have or exercise any power, authority, or jurisdiction whatever. And section one of chapter three hundred and fifty-eight of the acts of the year eighteen hundred and seventy-two is hereby repealed.

[DECISION OF THE SUPREME COURT.]

COMMONWEALTH OF MASSACHUSETTS.

WORCESTER, SS.

SUPREME JUDICIAL COURT. SEPTEMBER LAW TERM, 1879.

Commonwealth *v.* Jeremiah Horregan.
Commonwealth *v.* Michael Toomey.

Opinion of the Court.

SOULE, J. The Statute of 1870, ch. 359, § 11, provides that "when a boy" under the age of seventeen years "is convicted by a judge of the probate court of any offence, . . . he may be sentenced and committed to any institution established by authority of the laws of the Commonwealth for the reformation of juvenile offenders; or, if below the age of twelve years, to the state reform school; . . . or, in the discretion of the judge, to such other punishment as is provided for the offence." By the Stat. of 1872, ch. 358, the governor is authorized to designate and commission the judges of municipal, district, and police courts, to try juvenile offenders; and it is provided that such judges so designated and commissioned shall have and exercise concurrent jurisdiction, duties, powers, and authority in their respective counties with judges of probate courts in all cases of juvenile offenders under seventeen years of age. It was conceded, at the argument, that, under the statute last above cited, the Central District Court of Worcester had jurisdiction to try the defendants on the complaints in the cases at bar, and sentence them, unless the Stat. of 1870, ch. 359, § 11, is unconstitutional.

The defendants are charged in the complaints with wilfully and maliciously destroying and injuring the personal property of another, to wit: four leather belts of the aggregate value of two hundred dollars, by cutting said belts into pieces. The complaints, therefore, charge the commission of the offence described in the Gen. Stats., ch. 161, § 85, which is thereby made punishable "by imprisonment in the state prison not exceeding five years, or by fine not exceeding one thousand dollars and imprisonment in the jail not exceeding one year; provided, that when the value of the property so destroyed or injured is not alleged to exceed the sum of fifteen dollars, the punishment shall be by fine not exceeding fifteen dollars, or imprisonment in the jail not exceeding thirty days." It is plain, therefore, that the Stat. of 1870, ch. 359, § 11, is broad enough in its terms to invest judges of probate with authority to try, without a jury, and without previous indictment, boys charged with offences punishable by imprisonment in the state prison; and that the Stat. of 1872, ch. 358, gives the same authority to judges of district courts specially designated and commissioned therefor. Nolan's case, 122 Mass. 320. The repeal of the last-named statute is expressly so limited as not to impair the jurisdiction of any police, municipal or district court. Stat. 1877, ch. 212, § 9.

In Jones *v.* Robbins, 8 Gray, 329, it was held that a statute which purports to give an inferior tribunal jurisdiction to impose the punishment of imprisonment in the state prison, without presentment by a grand jury, is unconstitutional and void: being in violation of the twelfth article of the Declaration of Rights. It follows that the Statute of 1870, so far as it attempts to give such power to judges of the probate courts, and the Statute of 1872, so far as it attempts to give such power to the judges of police, district and municipal courts, is unconstitutional, and that § 11 of the Statute of 1870, ch. 359, is void, so far as offences punishable by infamous punishment are concerned, unless the two parts are distinct and independent. But if it were held that that part of these statutes which confers jurisdiction was valid, and that the part which gives the power to punish was invalid, it would follow that juvenile offenders, guilty of grave offences, and unfit persons

to be sent to any reformatory institution, could be tried and convicted by tribunals which have no authority to inflict the appropriate punishment. The legislature cannot have intended this result, and we cannot, therefore, regard the two parts of the statute as distinct and independent. Nolan's case, *supra*.

For these reasons, we are of opinion that the Statute of 1870, ch. 359, § 11, and the Stat. of 1872, ch. 358, so far as they affect offences punishable by an infamous punishment, are unconstitutional and void. It follows that they had no affect to give final jurisdiction to the Central District Court of Worcester of the offence charged in the complaints against the defendants. The finding of the jury, that the value of the property destroyed was less than fifteen dollars, does not remove the difficulty, because the punishment which may be inflicted is made by the Gen. Stat., ch. 161, § 85, to depend on the value alleged in the complaint or indictment, and not on the value found by the jury. The entry must be *Judgment arrested.*

[Statutes 1876, chap. 169.]

Towns, &c., in which persons committed to state reform or industrial school have a settlement, to pay $1 a week for their support, after notice. G. S. 76, § 29. 1865, 256, § 1. Recovery from kindred.

Whenever a person having a settlement in this Commonwealth, is committed to the state industrial school, or to the state reform school, the trustees of the school to which such commitment is made shall give written notice of such commitment to the overseers of the poor of the place of settlement, and the town or city in which such person has a settlement, if notified as above stated, shall pay one dollar per week, from the date of such notice, for the support of such person in said school, which sum shall be paid to the treasurer of the Commonwealth, or be recovered by him through the general agent of state charities. Any sum so paid may be recovered by such city or town of any parent, kindred or guardian liable by law to maintain such person.

[Statutes 1879, chap. 291.]

Board of trustees to be appointed.

Terms of office.

SECT. 8. The governor, with the advice and consent of the council, shall appoint a board of seven trustees, two of whom shall be women, who shall have charge of the government of the state reform school at Westborough, the state industrial school for girls at Lancaster, and the state primary school at Monson; and shall be known as the trustees of the state primary and reform schools. They shall hold office five years: *provided*, that the terms of the seven first appointed shall be so arranged that the term of two shall expire in one year, two in two years, one in three years, one in four years and one in five years; and the vacancies so arising, as well as vacancies otherwise occurring, shall be filled by appointment or re-appointment by the governor and council. And no person employed by the board and receiving compensation shall be a member thereof.

To be a corporation for purpose of holding gifts, grants, or bequests.

Said board of trustees shall be a corporation, for the purpose of taking, holding and investing, to themselves and their successors, in trust for the Commonwealth, any grant or devise of lands, and any gift or bequest of money or other personal property, made for the use of the institutions of which

they are trustees, or either of them; and they shall succeed to the trusts and powers heretofore held or acquired by the boards of trustees, and the treasurers of the state reform and the state industrial schools, and said board of trustees shall have the powers and perform the duties of the trustees and inspectors of the institutions named in this section, except as otherwise provided in this act.

To succeed to former trusts and powers.

Powers and duties.

[Statutes 1878, chap. 276.]

SECTION 1. There shall be placed in each of the penal and reformatory institutions in this Commonwealth a lock letter-box accessible to the inmates thereof, the key of which shall be kept by the principal officer in charge of each of said institutions, and every inmate shall have the right to deposit therein any communication in writing addressed to such principal officer, or to any member of the board of directors or trustees, and such communication shall be duly delivered according to the address thereon.

Letter-box to be kept where prisoners may place letters addressed to the principal, &c.

C. THE OUT-DOOR POOR.

(1.) *The Care of the Sick Poor and of Contagious Diseases.*

[General Statutes, chap. 26.]

SECT. 30. Incorporated manufacturing companies; superintendents of almshouses, state reform and industrial schools, lunatic hospitals, and other places where the poor and sick are received; masters of houses of correction, jailers, keepers of prisons, the warden of the state prison; and superintendents or officers of all other institutions supported or aided by the state; shall at the expense of their respective establishments or institutions cause all inmates thereof to be vaccinated immediately upon their entrance thereto, unless they produce sufficient evidence of previous successful vaccination within five years.

Inmates of almshouses, &c., to be vaccinated. 1855, 414, §§ 5, 6.

[Statutes 1865, chap. 162.]

SECTION 1. No city or town authorities shall be allowed to send to either of the state almshouses any person infected with small-pox or other disease dangerous to the public health, nor any other sick person whose health would be endangered by removal; but all such persons liable to be maintained by the Commonwealth, shall be supported during such sickness by the city or town in which they are taken sick, and notice of such sickness shall be given to the board of state charities, who shall have authority to examine the case, and order the removal of the patient if they deem expedient.

Persons infected with small-pox, &c., not to be sent to state almshouses. How taken care of. 1866, c. 234. 1869, c. 12. 1874, c. 121. 1879, c. 291.

SECT. 2. The expense incurred by any city or town under the provisions of the first section of this act, after notice shall have been given as therein required, and the

Expenses of care of such persons, how paid.

bills for said support having been approved by the agent of the board of state charities, shall be reimbursed by the Commonwealth to an amount not exceeding at the rate of the average weekly cost of the support of similar patients at the Rainsford Island hospital.

Penalty on town officers for violation of this act. 1879, c. 291.

SECT. 3. Any mayor or overseer of the poor who shall knowingly offend against the provisions of the first section of this act, shall be subject to a penalty of not less than fifty nor more than one hundred dollars.

[Statutes 1874, chap. 121.]

Boards of health to act in certain cases. G. S. 26.

SECTION 1. In any case arising under the provisions of the twenty-sixth chapter of the General Statutes and the acts in addition thereto, in which the board of health shall have acted, said board of health shall retain charge of the same to the exclusion of the overseers of the poor of any city or town.

Payment for care of persons having contagious diseases. G. S. 26, §§ 16, 51. 1869, c. 12. 1872, c. 189.

SECT. 2. All reasonable expenses which have been heretofore, or may hereafter be incurred by the board of health of any city or town, in making the provision required by law for any person infected with the small-pox, or any other disease dangerous to the public health, shall be paid by the person himself, his parents, or master, if able; otherwise by the town in which he has a legal settlement, and if he has no settlement in any town, by the Commonwealth, in which case the bills therefor shall be approved by the board of state charities.

(2.) *As to Indians, so called.*

[Statutes 1869, chap. 463.]

Board of state charities to make provision for support of Indians.

SECT. 4. Upon the application of the overseers of the poor of any town, to the board of state charities, said board shall make provision in the state almshouses or elsewhere, for the support of any person heretofore known as Indians, who may be unable to support themselves, and who have not acquired a settlement in any town; and upon the application of any Indian who has heretofore received aid from the Commonwealth, the said board shall furnish to such person, in the state almshouse or elsewhere, such aid as they may deem expedient.

(3.) *Support of State Paupers, whose Pauper Wives have Settlements in Towns.*

[Statutes 1866, chap. 234.]

Support of married state pauper. G. S. 71. 1861, c. 94.

SECTION 1. When the operation of any provisions of law in relation to poor and indigent persons might cause a separation of husband and wife by reason of the wife having a legal settlement in some place in the Commonwealth, the husband being a state pauper, both parties shall be supported by the place where the wife has a legal settlement.

Expense of such support, how paid.

SECT. 2. The expense of thus supporting the person who is such state pauper shall be paid by the Commonwealth, reference being had to the expense of supporting such person at the state almshouse, if there committed.

SECT. 3. Chapter ninety-four of the acts of the year 1861, is hereby repealed.

(4.) *Foundlings and Deserted Children.*

[Statutes 1867, chap. 230, sect. 3.]

Overseers of poor and officers state almshouses may give children in care.

The overseers of the poor of any city or town in the Commonwealth, and the superintendents and inspectors of the state almshouses, may place deserted and destitute infants in the care of said corporation, under the laws for the relief of the poor, and such sum shall be paid for the temporary support of such infants as may be agreed upon between the parties; *provided*, that said overseers and the board of state charities shall use all reasonable care to collect the cost of such temporary support from parties justly chargeable with the same, whenever they can be ascertained, and to remove those not born or not having a settlement in this state.

Proviso: overseers and board of charities shall collect cost of support, and remove non-residents.

[Statutes 1870, chap. 136.]

Massachusetts infant asylum and board of state charities. 1867, c. 230. 1879, c. 291.

SECTION 1. Whenever an infant having no known settlement in this Commonwealth, shall be received by the Massachusetts infant asylum, agreeably to the provisions of the act incorporating the same, immediate notice shall be given in writing, of such reception, to the board of state charities, by the directors of said asylum, or by their direction, and said board shall have authority to examine the case and remove such infant, if they consider such removal expedient. The expense incurred by said asylum for the support of such infant, after the bills for the same shall have been approved by the board of state charities, or by the person designated by them to audit the same, shall be reimbursed by the Commonwealth to an amount not exceeding four dollars per week for each infant: *provided*, *however*, that the Commonwealth shall be under no obligation to reimburse said asylum, for any expense incurred for the support of any such infant, for a period of more than one week prior to the giving of the notice provided for in this act.

Expense of supporting state pauper infants to be reimbursed by Commonwealth.

Authority of the board.

SECT. 2. The authority of the board of state charities, as to any infant mentioned in the foregoing section, shall be the same that said board now has, as to infants in the state almshouse.

(5.) *The Burial of State Paupers and Persons found Dead.*

[General Statutes, chap. 70.]

SECT. 15. The overseers of the poor of each place

Overseers shall support, and, in case of decease, bury, indigent strangers. Compensation therefor. 1867, c. 97.

shall also relieve, support and employ all poor persons residing or found therein, having no lawful settlements within this state until their removal to a state almshouse; and in case of their decease shall decently bury them, the expense whereof may be recovered of their kindred, if they have any chargeable by law for their support, in the manner hereinbefore provided; and if, in case of their burial, the expense thereof is not paid by such kindred, there shall be paid from the treasury of the Commonwealth five dollars for the funeral expenses of each pauper over twelve years of age, and two dollars and fifty cents for the funeral expenses of each pauper under that age.

[Statutes 1867, chap. 97.]

Allowance for funeral expenses. G. S. c. 70, § 15, amended.

Section fifteen of chapter seventy of the General Statutes is hereby amended so that ten dollars for the funeral expense of each pauper over twelve years of age, and five dollars for the funeral expenses of each pauper under that age, shall be paid from the treasury of the Commonwealth.

[Statutes 1878, chap. 256, sect. 1.]

Unknown persons found dead may be buried at the public expense.

Proviso.

The provisions of section fifteen of chapter seventy of the General Statutes, for the burial of state paupers, are hereby extended to unknown persons found dead, and to all persons without settlement, having died without means of support, notwithstanding such persons may not have applied for public relief during their lifetime; *provided, however*, that section seventeen of chapter two hundred of the acts of the year 1877 shall not be affected by this act.

(6.) *Temporary Aid of State Paupers by Cities or Towns.*

[Statutes 1877, chap. 183.]

AN ACT RELATING TO THE TEMPORARY AID OF STATE PAUPERS BY CITIES OR TOWNS.

Be it enacted, &c., as follows:

Temporary aid for state paupers;

SECTION 1. Any city or town through its authorities, having charge of the execution of the laws for the maintenance of the poor, may, if said authorities deem that the same is for the public interest, furnish temporary aid to poor persons found within its limits, having no settlement within the Commonwealth, and the expense thereby incurred, after notice has been sent as hereinafter provided, shall be repaid from the treasury of the Commonwealth to such city or town: *provided*, that said authorities shall give immediate notice by mail in each case to the general agent of state charities, who in person or by one of his assistants shall examine the case and direct the continuance of such aid, or removal to the state almshouse or to some place outside the Commonwealth, either before or after removal to the state almshouse, in accord-

expense to be repaid by state.

Proviso.

ance with existing laws; and *provided, also*, that except in cases of sick state poor, such aid shall not be furnished at any one time for a longer period than four weeks, or to a greater amount than one dollar per week for each person, or five dollars per week for each family, and *provided, also*, that all claims of cities and towns against the Commonwealth, for furnishing aid under the provisions of this act, shall be rendered in detail and shall be approved by the general agent of state charities before the same shall be paid. Proviso. Proviso.

SECT. 2. Nothing contained in this act shall be construed to alter or repeal any of the provisions of law in regard to the sick state poor, or persons ill with contagious diseases. [*Approved May 4, 1877.* Not to repeal laws concerning sick state poor, &c.

(7) *Audit of Claims against the Commonwealth for the Support and Burial of the Poor.*

[Gen. Stat., chap. 71.]

SECT. 56. Nothing shall be allowed from the treasury of the Commonwealth to any county, city or town for expenses incurred on account of any state pauper, except in cases expressly provided by law. Allowance for state paupers.

SECT. 57. All accounts against the Commonwealth for allowance to counties, cities and towns on account of state paupers, shall be rendered to the board of alien commissioners on or before the third Wednesday of January annually; and shall be so made as to include all claims for such charges up to the first day of said January; and if approved by said board, and certified by the auditor of accounts, shall be paid from the treasury of the Commonwealth. The commissioners may require such accounts to be accompanied with such statement of particulars and facts, and substantiated by such affidavits, as may seem to them proper. Accounts of counties, &c., how audited. 1863, c. 240.

[All other laws having any connection with the outdoor poor are equally applicable to other departments, and they are omitted to avoid repetition.]

D. CONCERNING STATISTICAL RETURNS.

Records and Returns of City and Town Paupers.

[The law on this subject, as it now exists, is found in Chapter 209 of the Acts of 1867, amended in 1875, by the substitution of a new section for section 2.]

[Statutes 1867, chap. 209.]

SECTION 1. It shall be the duty of overseers of the poor in all cities and towns of this Commonwealth to keep full and accurate records of the paupers fully supported, the persons relieved and partially supported, the travellers Overseers of poor to keep record of paupers, &c.

and vagrants lodged at the expense of said cities and towns, together with the amount paid for such support and relief.

[Statutes 1875, chap. 216]

Overseers of poor to make annual return of numbers of persons supported and relieved, and cost thereof, to the board of state charities; 1863, c. 240. to board of health, lunacy, and charity. 1879, c. 291.

SECTION 1. Section two of chapter two hundred and nine of the acts of the year eighteen hundred and sixty-seven is hereby repealed, and the following shall stand instead thereof, to wit: An annual return of the numbers of persons supported and relieved, as enumerated in the first section, with the cost of such support and relief, and a record of those fully supported, shall be made by the overseers of the poor to the secretary of the board of state charities during the month of April in each year, and shall be for the year ending on the thirty-first day of March preceding: *provided*, that, for the present year, said returns shall be made on or before the thirty-first day of May. In the year eighteen hundred and eighty-five, and in every tenth year thereafter, the returns provided for in section twenty-three, chapter seventy, of the General Statutes, shall be made and transmitted by overseers of the poor to the secretary of the board of state charities, during the month of April, and shall be for the year ending on the thirty-first day of March preceding. [*Approved May 19, 1875.*

[Statutes 1867, chap. 209.]

Penalty on towns for neglect to make returns. 1865, c. 162. 1866, c. 234.

SECT. 3. If the overseers of any town or city shall refuse or neglect to comply with the requirements of this act, said town or city shall forfeit the sum of one dollar for each day's neglect, and the amount of such forfeiture shall be deducted from any sum to which said town or city may be entitled in reimbursement for relief of state paupers as provided in chapters one hundred and sixty-two of the acts of the year eighteen hundred and sixty-five, and two hundred and thirty-four of the acts of the year eighteen hundred and sixty-six; and in case no such reimbursement shall be due to said town or city, the forfeiture shall be deducted from any money which may be due such town or city from the state.

Tables of such returns to be made and reported to legislature. 1879, c. 291.

SECT. 4. It shall be the duty of the secretary of the board of state charities to prepare tables from the returns thus made, and to report the most important information thus obtained to the board, who shall cause the same to be printed in their annual reports for the use of the legislature.

Repeal of 1864, c. 307, §§ 6, 7.

SECT. 5. Sections six and seven of chapter three hundred and seven of the acts of the year eighteen hundred and sixty-four, and all other acts and parts of acts inconsistent with this act are hereby repealed.

[Statutes 1871, chap. 370.]

SECTION 1. The overseers of the poor of each city and

town of this Commonwealth shall make semi-annual returns to the visiting agent of the board of state charities, concerning all minor children above the age of four years who are supported at the expense of such city or town, in an almshouse or elsewhere, on the first day of January and July. Said returns shall be made in such form, and shall contain such information respecting said minor children as may be prescribed by the board of state charities, and shall be forwarded to said agent on or before the tenth day of each month before mentioned.

Returns to be made by overseers to visiting agent concerning minor children supported by towns. G. S. 70. 1879, c. 359. 1879, c. 291.

Sect. 2. The provisions of sections two and three of chapter three hundred and fifty-nine of the acts of the year eighteen hundred and seventy, or other acts in addition thereto, in respect to children maintained wholly or in part by the state, and to the indenture of children from the state institutions, shall hereafter apply also to all minor children supported at the expense of any city or town; *provided*, that no such child shall be removed from any city or town without the consent of the overseers of the poor thereof.

Visiting agent to visit, &c., all minors supported at expense of towns. 1870, c. 359. 1872, c. 161.

Not to be removed, &c., without, &c.

General Statistics.

[Statutes 1863, chap. 240.]

The secretary of the board of state charities shall, under the direction and control of the board, examine the returns of the several cities and towns in relation to the support of paupers therein, and in relation to births, deaths and marriages, and he shall prepare a series of interrogatories to the several institutions of charity, reform and correction. supported wholly or in part by the Commonwealth, or the several counties thereof, with a view to illustrate in his annual report the causes and best treatment of pauperism, crime, disease and insanity. He shall also arrange and publish, in his said report, all desirable information concerning the industrial and material interests of the Commonwealth, bearing upon these subjects, and shall have free access to all reports and returns now required by law to be made; and he may also propose such general investigations as may be approved by the board.

G. S. 21, 22, 57, 71. 1862, c. 112. 1864, c. 307. 1867, c. 209, 243. 1870, c. 370. 1872, c. 24, 68, 349. 1874, c. 264, 385. 1879, c. 291.

Shall have access to all returns.

[Statutes 1867, chap. 243.]

Section 1. Every private society or institution for charitable purposes, when aided by a grant of money from the state treasury, shall cause to be annually prepared and forwarded to the board of state charities, a report of all its proceedings, income and expenditures, properly classified for the year ending on the thirtieth day of September; which report shall state the sum appropriated by the state, the sum expended under said appropriation, the whole number and the average number of beneficiaries, the number and salary of officers and employés, and such

Societies and institutions aided by the state to make report to board of state charities. 1863, c. 240. 1879, c. 291.

other information as the board of state charities may require.

How and when report to be made.

SECT. 2. The report provided for in the preceding section may be either in writing or in print. If in writing, it shall be sent in to the board of state charities on or before the fifteenth day of October, and if in print, on or before the first day of November in each year.

[NOTE. — The Act of 1879 (chap. 103), in regard to the removal of poor children from city almshouses, may be held (under Statutes of 1871, chap. 370, cited on p. 161) to apply to the Board of Health, Lunacy, and Charity. It is therefore given below.]

[Statutes 1879, chap. 103.]

Pauper children over four years of age to be placed in respectable families.

SECTION 1. It shall be the duty of the overseers of the poor in any city of the Commonwealth to place all pauper children, who are in their charge and who are over four years of age, in some respectable family in the state, or in some asylum therein, to be supported there by said city, according to the laws relating to the support of the poor, until they can be otherwise cared for. And

To be visited by the overseers once in three months.

the overseers shall visit such children in person or by agent at least once in three months, and make all needful inquiries as to their treatment or welfare.

SECT. 2. It shall be unlawful to retain in any almshouse any such child, that can be cared for as above directed, without inordinate expense: *provided*, that nothing herein contained shall apply to any child, that has no legal settlement in the state, nor to any child, that is idiotic or otherwise so defective bodily or mentally as to make such child's retention in an almshouse desirable, nor to any child under the age of eight years whose mother is an inmate of the almshouse, and a suitable person to aid in taking care of such child.

Not to apply to children having no legal settlement, &c.

Repeal.

SECT. 3. All acts and parts of acts inconsistent herewith are hereby repealed.

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